

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 98-AFC-4
SUNRISE COGENERATION AND)
POWER PROJECT (SUNRISE))
-----)

CALIFORNIA ENERGY COMMISSION
FIRST FLOOR HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 12, 1999

10:00 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBER PRESENT

Michal Moore, Presiding Member

David Rohy, Vice Chairman
Associate Member

STAFF PRESENT

Gary Fay, Hearing Officer

Bob Eller, Adviser to Vice Chairman Rohy

Shawn Pittard, Adviser to Commissioner Moore

Caryn Holmes, Senior Staff Counsel

Marc S. Pryor, Siting Project Manager

Eileen Allen, Project Manager

Ron Wetherall

Steve Baker

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 10:05 a.m.

3 PRESIDING MEMBER MOORE: Good morning,
4 I'm Michal Moore, I'm the Presiding Member of the
5 siting case for Sunrise Cogeneration, docket 98-
6 AFC-4 is the docket we have open today for the
7 evidentiary hearings.

8 I'm joined here by my colleague Dave
9 Rohy, to my left, and our Hearing Officer Gary
10 Fay, who is to my immediate left. Also in
11 attendance here Shawn Pittard, my Advisor.

12 And we have Bob -- I was going to do it
13 grumpy for Bob, actually I was pausing for
14 dramatic entrance -- and Bob Eller, who is the --
15 and the reason for the drumbeat is that I can
16 introduce Bob as the Principal Advisor for
17 Commissioner Rohy. And so we haven't had a chance
18 to publicly congratulate him on that, but I'll use
19 this opportunity to do that. So a welcome to him
20 in his new role.

21 And with that, I just want to make a
22 couple of introductory remarks. We've set aside
23 three days for the hearings. And we may not need
24 those, depending on how rapidly we go through
25 this, so again, the time is there set aside.

1 We'll use it as judiciously as we can in order to
2 get all the information on the table that we
3 possibly can.

4 For anyone who is new to this, let me
5 just remind you that the hearings are taped and
6 transcribed. So we ask that you speak as slowly
7 and as clearly as you can. If you have an unusual
8 last name, you'll know it by now, but our reporter
9 won't know it, and so would you please spell it
10 out. And if you have a business card I'm sure she
11 would appreciate getting that, as well.

12 If you have written testimony that
13 amplifies or tells in detail what you are telling
14 us in any case, she probably would like to have a
15 copy of that, as well.

16 So, we constitute the Committee for
17 this. And with that I'm going to turn to the
18 applicant and staff and then the intervenors to
19 introduce themselves. And then I'm going to come
20 back and turn this over to the Hearing Officer.

21 So, Mr. Grattan, if you'd like to
22 introduce your team.

23 MR. GRATTAN: Yes, it's very nice to be
24 here, Commissioner and Staff. My name is John
25 Grattan, and I represent, along with my partner,

1 Scott Galati, the applicant Sunrise Cogeneration
2 and Power.

3 I'd like to introduce Paul Dinkel who is
4 from Texaco Power and Gassification. Next is
5 Steve Clark from Black & Veatch, and Dave Stein
6 from Radian International. And Don Muraoka, also
7 from Radian, Julie Way from Texaco Power and
8 Gassification. Mervyn Soares, Texaco Power and
9 Gassification, and Tom Jackson from Legacy.

10 Have I missed anybody? Amazing.

11 And good morning, and we're ready to
12 proceed.

13 PRESIDING MEMBER MOORE: Good. You're
14 always tempted to ask, after long introductions
15 like that, who's running the plant, since you've
16 brought everyone with you.

17 MR. GRATTAN: Well, the plant is yet to
18 be built.

19 PRESIDING MEMBER MOORE: Understand.
20 Staff, and let me turn to Gary, are you going
21 to -- I'm sorry, Marc, I said Gary, I apologize.
22 Marc.

23 MR. PRYOR: Good morning, Commissioner
24 Moore, my name is Marc Pryor, that's P-r-y-o-r.
25 I'm the Project Manager for your Commission on the

1 Sunrise Project.

2 To my right is counsel, -- pardon me,
3 Caryn Holmes.

4 PRESIDING MEMBER MOORE: Well, now we
5 can be excused for doing that, Caryn is --

6 MS. HOLMES: I've done it, myself.

7 PRESIDING MEMBER MOORE: -- she's guilty
8 of it, herself, and so that takes us off the hook.
9 Thank you. For CURE?

10 MS. POOLE: Good morning, Commissioner,
11 Kate Poole for CURE.

12 PRESIDING MEMBER MOORE: Any other
13 government agencies represented here would like to
14 introduce themselves for the record?

15 And let me say that our Public Adviser
16 is here, and do you have any remarks that you'd
17 like to make, just in opening, Roberta?

18 MS. MENDONCA: Good morning. I'm
19 Roberta Mendonca, the Energy Commission's Public
20 Adviser.

21 PRESIDING MEMBER MOORE: Good. Those
22 kind of succinct remarks are always welcome.

23 And any other intervenors who are here?

24 MR. MILLER: Taylor Miller representing
25 Elk Hills Power. I do not intend to participate

1 actively today.

2 Can I put that on the tape?

3 PRESIDING MEMBER MOORE: Yes, that I'll
4 repeat. Taylor Miller for Elk Hills.

5 MR. MILLER: For the record I'm Taylor
6 Miller representing Elk Hills Power, an Intervenor
7 in this case. We do not expect to participate
8 actively in today's proceeding. Thank you.

9 PRESIDING MEMBER MOORE: Thank you. All
10 right, with that, anyone else who would like to
11 identify themselves for the Committee's benefit?

12 All right, let me say my opening remarks
13 are going to be very brief this morning. I just
14 want to say we will conduct these hearings in as
15 open a manner as possible. Commissioner Rohy and
16 I are here to gather as much information and
17 understanding as we can.

18 Primary to all of this is to make sure
19 that we stay on the schedule, in as clear and
20 consistent a manner as we can. So we're going to
21 be trying to understand what happens to the
22 schedule, where the information gaps are, what's
23 still to be found. And try and get some clarity
24 about some of the issues that have been up in the
25 air.

1 It is a formal hearing. I'll be as
2 loose as I can about the way that I handle it, but
3 keep in mind that this is not a round-robin of
4 testimony and reiteration and further reiteration.
5 We expect you to get your points out on the table
6 and we'll debate them as clearly as we can.

7 Commissioner Rohy, do you have any
8 remarks?

9 VICE CHAIRMAN ROHY: Good morning.

10 PRESIDING MEMBER MOORE: We rehearsed
11 that and got it down pat.

12 With that I'm going to turn to my
13 Hearing Officer, Gary Fay, and ask for his opening
14 comments. And then we'll begin.

15 HEARING OFFICER FAY: Thank you,
16 Commissioner Moore. A few housekeeping matters.
17 I'll call everybody's attention to the fact that
18 today's hearing was publicly noticed on September
19 30th, and we have copies of the notice and hearing
20 order there at the corner of the table.

21 And attachment A at the back of that
22 hearing order gives the order for the day and we
23 will use that as our agenda. And plan on
24 Thursday, using that as our agenda, as well.

25 In addition, next to that are copies of

1 the applicant's tentative exhibit list that we
2 will be using today to help us identify exhibits.
3 And perhaps you can just add, handwritten in,
4 additional exhibits that will be coming in that
5 are not shown on that list.

6 These evidentiary hearings are formal in
7 nature and the witnesses will testify under oath
8 or affirmation. The party sponsoring a witness
9 will first briefly establish the witness'
10 qualifications, and have the witness orally
11 summarize any prepared testimony before requesting
12 that the testimony be moved into evidence.

13 The sponsoring party should also
14 identify any relevant exhibits by their exhibit
15 number at the time, and move them into evidence as
16 appropriate.

17 At the conclusion of the direct
18 testimony the Committee will provide other parties
19 the opportunity for cross-examination, followed by
20 recross, and redirect, as appropriate.

21 As warranted, multiple witnesses may
22 testify as a panel.

23 The agenda for today, as I mentioned, is
24 contained in attachment A of the hearing order.
25 And I've recently become aware of several changes

1 that need to be made to the hearing order, and
2 I'll just acknowledge them right now.

3 Under project description the
4 applicant's witnesses include Mr. Dinkel and Ms.
5 Way. Under general conditions, compliance
6 monitoring and closure, the staff witness is not
7 Ms. Scott, it's Ms. Tronas --

8 MS. HOLMES: Mr. Hearing Officer, if I
9 could at this moment, Ms. Tronas is on jury duty
10 today and Mr. Najarian, who's head of the
11 compliance unit, has agreed to step in and sponsor
12 that testimony.

13 HEARING OFFICER FAY: Okay, that's fine.

14 And then on Thursday's hearing for
15 hazardous materials management for the applicant
16 we have Mr. Muraoka, but we do not have Messrs.
17 Chambers, Clark and Soares. Instead we have
18 Messrs. Einhoff and de la Cruz. We have no
19 witness for CURE on hazardous materials
20 management. And that concludes my corrections.
21 Are there any other corrections to be made to that
22 list of witnesses?

23 All right, I see no indication.

24 There are a number of topics that the
25 Committee list as possible for submittal just on

1 affidavit. And I have to modify that list based
2 on information staff has given me. Facility
3 design will not be taken that way, we'll need the
4 witnesses, geologic and paleontological resources,
5 we will need the witnesses, and noise. But we may
6 be able, if there's no objection, we may be able
7 to take evidence on affidavit regarding power
8 plant reliability, power plant efficiency, waste
9 management, transmission line safety and nuisance,
10 and our general compliance provisions.

11 So if there's no objection to that, that
12 may save us some time.

13 We wanted to be sure to get an update
14 from the parties on the topics that staff has
15 indicated they plan to file on October 15th. Are
16 you able to advise us on that at this time, or
17 would you be in a better position to do that on
18 Thursday? We'd like to get that on the record.

19 MR. PRYOR: All four sections, the
20 transmission system engineering, traffic and
21 transportation, and the other two, I'm sorry, I've
22 gone blank, anyway expect to file those -- all
23 four on Friday as part two.

24 HEARING OFFICER FAY: Okay.

25 PRESIDING MEMBER MOORE: They'll be

1 filed on Friday?

2 MR. PRYOR: Yes, sir.

3 HEARING OFFICER FAY: And if you look in
4 your hearing order, we anticipated relying on
5 staff's filing on the 15th, and therefore we
6 reserved time on Friday, November 5th, to hear
7 traffic and transportation, socioeconomics,
8 transmission system engineering, and worker safety
9 and fire protection.

10 MR. PRYOR: Thank you.

11 HEARING OFFICER FAY: And the Committee
12 will issue a notice on that, but the parties here
13 are now on notice that that will take place on
14 Friday, November 5th. I'm not sure if it's in
15 hearing room B, where we are now, or hearing room
16 A across the atrium. But the written notice will
17 clarify that.

18 Is there any new information on when the
19 final DOC is expected?

20 MR. PRYOR: Staff is not aware of any
21 date for the DOC.

22 HEARING OFFICER FAY: All right. Are
23 you aware of anything, Mr. Grattan?

24 MR. GRATTAN: We don't have a firm date
25 right now.

1 HEARING OFFICER FAY: Okay.

2 PRESIDING MEMBER MOORE: Has there been
3 any correspondence with the air district on that
4 to start to line out how rapidly they're going to
5 move?

6 MR. GRATTAN: There has been
7 communications, and we have been trying to push
8 that process.

9 PRESIDING MEMBER MOORE: Okay.

10 MR. GRATTAN: I hesitate to speak for
11 the air district.

12 PRESIDING MEMBER MOORE: Well, since
13 that's a very big variable, --

14 MR. GRATTAN: Right.

15 PRESIDING MEMBER MOORE: -- and
16 obviously critical for each actor in this drama,
17 then it seems to me that as soon as we understand
18 what their time limits are we should alert
19 everyone to it. We can adjust our schedule
20 accordingly. Okay.

21 HEARING OFFICER FAY: As I believe the
22 hearing order indicated, a number of topics that
23 are linked to air quality, and --

24 MR. GRATTAN: We anticipate, and again I
25 have great reluctance to speak for the district,

1 but we anticipate a final DOC within a week.

2 HEARING OFFICER FAY: Okay. And I'd
3 like to ask staff, I understand that it's your
4 plan to submit, or perhaps you've already
5 submitted to the applicant, yet another round of
6 data requests regarding water. Have those gone
7 out yet?

8 MR. PRYOR: We, at this time, do not
9 anticipate data requests. We will be holding a
10 workshop on the 28th and will address soils and
11 water resources and biological resources.

12 HEARING OFFICER FAY: All right, thank
13 you. And speaking of biological resources, Ms.
14 Poole, do you have anything to tell us?

15 MS. POOLE: Yes, let me jump in here and
16 explain my misunderstanding. I was under the
17 impression that because a workshop had been
18 scheduled for late October, and the biology
19 hearings had not been scheduled, that testimony
20 was not due in that subject area on October 6th,
21 so we did not file anything. I apologize for
22 that.

23 We do plan to file biology testimony. I
24 have told the Hearing Officer that I'll try to get
25 something in initially as soon as possible. We

1 would like to be able to supplement that following
2 workshops also.

3 HEARING OFFICER FAY: It seems
4 reasonable to me that the parties may have
5 amendments to their testimony following the
6 workshop, if the workshop is productive.

7 But I think in fairness to everybody
8 we'd like to get a time when you can commit to
9 filing on biology, since it's coming in later than
10 what was called for.

11 MS. POOLE: How's October 15th, Friday?

12 HEARING OFFICER FAY: All right. Any
13 response to that?

14 MR. GRATTAN: Only that the order was
15 fairly clear to other parties involved, and we
16 filed testimony in accordance with that order, and
17 in response to that order, and I don't see why any
18 intervenor should be given special treatment on
19 this issue.

20 MS. POOLE: If --

21 HEARING OFFICER FAY: All right, I
22 understand your objection and I think in light of
23 the potential ambiguity that I can see was
24 possible with biology trailing so late, we'll have
25 to overrule your objection and allow CURE to file

1 no later than October 15th.

2 And we would direct CURE to use this to
3 deal with the staff testimony. It is not an
4 opportunity to rebut the applicant's testimony,
5 since you're at an unfair advantage.

6 MS. POOLE: We will do that, thank you.

7 HEARING OFFICER FAY: All right. Okay,
8 what we would like to do then -- are there any
9 other preliminary remarks before we begin? Mr.
10 Grattan.

11 MR. GRATTAN: Yes. If the Committee is
12 interested in speeding up this process a little, I
13 would suggest, if acceptable to the other parties
14 here, that need, power plant reliability, power
15 plant efficiency and general compliance and
16 closure provisions might be treated by affidavit.

17 PRESIDING MEMBER MOORE: Staff, reaction
18 from staff?

19 MS. HOLMES: We're in agreement with
20 that.

21 PRESIDING MEMBER MOORE: Well, it seems
22 to me that under affidavit we can -- we have a
23 question about need conformance, and I'm not sure
24 we'd want to let staff off the hook on producing
25 that, but it seems to me that the affidavit would

1 be a suitable substitute for it. And that's
2 agreed.

3 HEARING OFFICER FAY: Is there any
4 objection to Mr. Grattan's suggestion on those
5 topics?

6 Then what we'd like to do us handle it
7 this way that if there are some general questions
8 in those topic areas when the staff or applicant
9 introduces their written testimony into the
10 record, those questions can be directed to the
11 project manager. If the project manager is not
12 able to answer them, we reserve the right to call
13 those witnesses, but --

14 MR. GRATTAN: If I can proceed a little
15 bit more on the issue of affidavits, I wanted to
16 verify that the Committee is still intending to
17 hear transmission -- excuse me, to allow
18 transmission safety and nuisance to be done by
19 affidavit, that was in the order.

20 HEARING OFFICER FAY: That is our
21 intention. Is there any objection to that?

22 MR. GRATTAN: And noise.

23 HEARING OFFICER FAY: Noise, we will not
24 be able to, I understand.

25 MR. GRATTAN: We followed the direction

1 of the order and filed the declaration. We don't
2 have a witness here on noise.

3 HEARING OFFICER FAY: I appreciate that.
4 And it may not require a witness, but I was
5 informed this morning by staff counsel that there
6 is some disagreement on noise, and perhaps we'll
7 just have to get to that and see whether it's --
8 we would have to call back the witness --

9 MR. GRATTAN: That's fine, I don't
10 believe we need a witness to take care of that
11 issue.

12 MS. HOLMES: I'm sorry, Mr. Fay, we did
13 have questions. There were some comments that
14 were presented in the applicant's testimony on the
15 noise issue that staff didn't understand and I had
16 prepared cross-examination questions to clarify
17 that.

18 If it's appropriate to either not
19 sponsor that portion of the testimony, or to put
20 need off to another day, that's acceptable.

21 PRESIDING MEMBER MOORE: With that kind
22 of a statement I think we'll have to put it off to
23 another day and we'll have to have your witness
24 here to answer those questions.

25 HEARING OFFICER FAY: Mr. Grattan was

1 reasonable in relying on the order because that
2 was one of the areas we indicated just
3 anticipating a lack of controversy. But lo and
4 behold, it surfaced anyway, so --

5 MR. GRATTAN: Well, perhaps a tempest in
6 a teapot.

7 HEARING OFFICER FAY: Perhaps, but --

8 MS. HOLMES: We're hoping so.

9 HEARING OFFICER FAY: -- but I mean
10 that's why we set it up this way so that --

11 MR. GRATTAN: Right.

12 HEARING OFFICER FAY: -- we can revisit
13 these if need be. So, I think --

14 MR. GRATTAN: And with geology, we have
15 not brought a witness with us, again relying on
16 the order. But we did have a question on staff's
17 testimony on geology, and that can be handled, I
18 think, if we can cross-examine staff's witness on
19 that.

20 MS. HOLMES: Staff has no questions of
21 applicant's witnesses on either geology or
22 paleontological resources, but our witness is
23 prepared to accept cross-examination by applicant,
24 so I think we can proceed with that today.

25 HEARING OFFICER FAY: Move forward on

1 that, okay. So we'll make what progress we can.

2 So I think, unless I hear otherwise, and
3 I would encourage counsel to speak to each other
4 during the break, but if this can't be resolved
5 regarding noise, so that we can take it on
6 declaration today, then we'll put that over until
7 Thursday.

8 MS. HOLMES: Mr. Fay, could I ask you to
9 summarize again the areas that are potentially
10 available to come in by declaration? I'm not sure
11 I have the entire list.

12 HEARING OFFICER FAY: Okay. I think the
13 general conditions, power plant reliability, power
14 plant efficiency, waste management, transmission
15 line safety and nuisance and I suppose we look at
16 geology as a hybrid since you'll have your witness
17 and the applicant won't have theirs. But that's
18 acceptable to them.

19 MS. HOLMES: So what was the disposition
20 of demand conformance?

21 HEARING OFFICER FAY: I believe
22 Commissioner Moore said he wanted to hear from the
23 staff witness.

24 MS. HOLMES: Thank you.

25 HEARING OFFICER FAY: All right, any

1 other preliminary remarks before we identify
2 exhibits?

3 MR. GRATTAN: One more. We would like
4 to suggest that applicant's testimony package be
5 labeled as applicant's exhibit 22, I believe
6 that's the next.

7 HEARING OFFICER FAY: And that was filed
8 October 6th. Okay.

9 (The above-referenced document was
10 marked Applicant exhibit 22 for
11 identification.)

12 HEARING OFFICER FAY: All right. We'd
13 like to identify the exhibits as per the tentative
14 exhibit list. If there's no objection, with the
15 modification that Mr. Grattan made, and then ask
16 staff for the exhibits that they wish to have
17 identified.

18 MS. HOLMES: Thank you. Staff has three
19 exhibits, the final staff assessment, --

20 HEARING OFFICER FAY: That would be
21 exhibit 23, that is the final staff assessment,
22 part 1.

23 MS. HOLMES: Correct.

24 HEARING OFFICER FAY: Filed on October
25 1.

1 (The above-referenced document was
2 marked CEC Staff exhibit 23 for
3 identification.)

4 MS. HOLMES: We also have two written
5 errata which will be docketed today. I think it
6 would be easier to mark them as an exhibit --

7 HEARING OFFICER FAY: Okay, would you
8 identify them for us?

9 MS. HOLMES: -- for purposes of the
10 hearing. The first one is entitled errata to
11 staff's testimony, Sunrise Cogeneration and Power
12 Project, final staff assessment, cultural
13 resources. And it has the date on the bottom of
14 October 11, 1999.

15 HEARING OFFICER FAY: That will be
16 exhibit 24.

17 (The above-referenced document was
18 marked CEC Staff exhibit 24 for
19 identification.)

20 MS. HOLMES: And similarly we have
21 errata to staff's testimony, Sunrise Cogeneration
22 and Power Project, final staff assessment,
23 facility design. That also has a date of October
24 11, 1999.

25 HEARING OFFICER FAY: And that will be

1 docketed today?

2 MS. HOLMES: Yes.

3 HEARING OFFICER FAY: Okay, that will be
4 exhibit 25.

5 (The above-referenced document was
6 marked CEC Staff exhibit 25 for
7 identification.)

8 HEARING OFFICER FAY: All right. Any
9 other exhibits to be identified at this time?
10 Okay.

11 Then, Mr. Grattan, are you ready to
12 proceed with your witnesses on the project
13 description?

14 MR. GRATTAN: Yes. Note for the record
15 that we have project description and we have a
16 project purpose or project objectives portion of
17 it, as well. And project --

18 HEARING OFFICER FAY: And if you'd like
19 to bring them up --

20 MR. GRATTAN: If we can do --

21 HEARING OFFICER FAY: -- as a panel,
22 that's fine.

23 MR. GRATTAN: -- actually, if we can do
24 project ownership, project description and project
25 objectives as a panel, we have two witnesses for

1 that.

2 HEARING OFFICER FAY: That's fine.

3 That's fine.

4 MR. GRATTAN: Paul Dinkel and Julie Way,
5 please.

6 HEARING OFFICER FAY: Please swear the
7 witnesses.

8 Whereupon,

9 JULIE WAY and PAUL DINKEL
10 were called as witnesses herein, and after first
11 having been duly sworn, were examined and
12 testified as follows:

13 MR. GRATTAN: You both have good loud
14 microphones?

15 PRESIDING MEMBER MOORE: They're not
16 amplifying, they're just recording.

17 MR. GRATTAN: I'd like to start with
18 project ownership and introduce and qualify Ms.
19 Julie Way, first.

20 DIRECT EXAMINATION

21 BY MR. GRATTAN:

22 Q Could you please give us your name,
23 address and current employment?

24 A Yes, my name is Julie Way, and I live in
25 Oak Park, California. I'm currently employed as a

1 Project Development Manager for Texaco Power and
2 Gassification.

3 MR. GRATTAN: Can everyone hear? Okay.

4 BY MR. GRATTAN:

5 Q Have you prepared previously submitted
6 written testimony in this AFC proceeding?

7 A Yes, I prepared the project ownership
8 testimony as part of the applicant's testimony
9 package.

10 Q And are you sponsoring exhibits at this
11 hearing?

12 A I'm sponsoring section 1.2, project
13 ownership, of exhibit 1.

14 Q Very good. And can you affirm your
15 previous testimony under oath today?

16 A Yes.

17 Q Do you have any corrections or
18 modification to that testimony?

19 A No, I do not.

20 Q Could you summarize your testimony,
21 please?

22 A Yes. The project applicant is Sunrise
23 Cogeneration Power Company, which is a Delaware
24 corporation. The thermal host for the project is
25 Texaco California, Inc., TCI, which operates the

1 oil field in the Midway-Sunset area.

2 Sunrise Cogeneration and Power Company
3 is a wholly owned subsidiary of Texaco, Inc. And
4 it's currently managed by the Texaco Power and
5 Gassification business unit for whom I work.

6 The charter of Texaco Power and
7 Gassification is to develop cogeneration and power
8 projects globally. We currently have six
9 cogeneration projects in operation in California
10 which include the Kern River Cogeneration Company,
11 Sycamore, Sergeant Canyon, Salinas River, Coalinga
12 and the Midset Project.

13 In addition to those six plants in
14 California, we also have in construction or
15 development a 700 megawatt combined cycle plant in
16 Thailand, two 300 megawatt plants in the
17 Philippines and Indonesia respectively, and a
18 cogeneration plant in Nevada which provides
19 exhaust heat to an industrial host, and numerous
20 gassification projects which take waste products
21 and generate useful fuel.

22 Q Does that conclude your testimony?

23 A Yes, it does.

24 MR. GRATTAN: Witness is tendered for
25 cross-examination.

1 PRESIDING MEMBER MOORE: Any questions
2 from staff?

3 MS. HOLMES: No.

4 PRESIDING MEMBER MOORE: And from the
5 intervenors?

6 MS. POOLE: No questions.

7 PRESIDING MEMBER MOORE: Commissioner
8 Rohy?

9 VICE CHAIRMAN ROHY: No questions.

10 PRESIDING MEMBER MOORE: Thank you very
11 much.

12 MR. GRATTAN: Thank you.

13 HEARING OFFICER FAY: Did you want to
14 move those exhibits into evidence?

15 MR. GRATTAN: Yes, I'd love to move
16 those exhibits into evidence. Thank you for
17 reminding me.

18 HEARING OFFICER FAY: Is there any
19 objection to receiving them at this time?

20 MS. HOLMES: No objection.

21 HEARING OFFICER FAY: All right, so
22 moved.

23 (The above-referenced document,
24 previously marked Applicant exhibit
25 1 section 1.2, was received in

1 evidence.)

2 MR. GRATTAN: Now I would like to
3 present Paul Dinkel, and Paul -- well, I'll let --
4 he can tell you what he's going to testify to.

5 DIRECT EXAMINATION

6 BY MR. GRATTAN:

7 Q Can you give us your name and address
8 and current employment, Paul?

9 PRESIDING MEMBER MOORE: And
10 qualifications, as well, I think that's probably a
11 good thing to have on the record.

12 BY MR. GRATTAN:

13 Q Yes, and qualifications, role in the
14 project?

15 A Yes. My name is Paul Dinkel; I live in
16 Santa Clarita, California. Employed by Texaco
17 Power and Gassification. Registered professional
18 engineer and involved in the permitting process
19 for the Sunrise Project.

20 Q And have you prepared previously
21 submitted testimony in the AFC proceeding?

22 A Yes, I prepared the project description
23 testimony as part of the applicant's testimony
24 package.

25 Q Are you sponsoring any exhibits at this

1 hearing?

2 A Yes, I'm sponsoring exhibit 1, which is
3 the AFC and revision section 2.0; exhibits 5,
4 responses to CEC data requests, responses 41
5 through 54; and exhibit 7, Sunrise comments on PSA
6 pages 3 through 6.

7 Q And can you affirm that testimony under
8 oath?

9 A Yes.

10 Q Very good. Do you have any corrections
11 or modifications to the testimony?

12 A Yes. On page 2 of the testimony under
13 project description, the steam quality should read
14 65 through 80 percent, rather than the 60 through
15 80 percent.

16 Q And have you any further?

17 A On page 3 of my testimony under project
18 schedule, the anticipated date of commencing
19 operation should read May 1st rather than March 1,
20 2001.

21 Q Okay, thank you. Could you summarize
22 your testimony, please.

23 A The Sunrise Cogeneration and Power
24 Project is a 320 megawatt natural-gas fired
25 cogeneration facility. It will be located on the

1 16-acre site within a previously disturbed 20-acre
2 parcel of land in the Midway Sunset oil field, and
3 it's located approximately three miles north of
4 Fellows, California.

5 Sunrise Cogeneration Power Company will
6 develop, own and operate the plant. The project
7 is a cogeneration project which will sell
8 electricity on the open market or through direct
9 sales agreements.

10 The 1.8 million pounds per hour of 65 to
11 80 percent quality steam produced by the project
12 will be sold to Texaco California, Inc., TCI, for
13 use in its thermally enhanced oil recovery
14 operations.

15 The project will consist of two GE Frame
16 7FA combustion turbines, two unfired Knutter-
17 Erickson heat recovery steam generators, and the
18 balance of plant equipment, systems and
19 structures.

20 The gas turbines are of a new generation
21 of highly efficient turbines, and when operating
22 in a cogeneration cycle as thermally enhanced or
23 recovery operations, will have a heat rate of
24 about 4600 Btu per kilowatt hour.

25 When compared to the average heat rate

1 of 10- to 14,000 Btu per kilowatt hour for
2 systemwide thermal generating plants in California
3 and heat rates of about 6000 to 6500 Btu per
4 kilowatt hour for new combined cycle stand-alone
5 plants, the project will operate at an extremely
6 high level of efficiency.

7 To put it in kind of another way of
8 looking at it in terms of thermal efficiency,
9 thermal efficiency of the Sunrise Project will be
10 about 87 percent. This compares to about 58 to 60
11 percent for a new combined cycle stand-alone
12 plants in the mid 30s for some of the existing
13 generation statewide in California. These
14 efficiencies will result in benefits to the
15 California electric consumer.

16 Except for a small quantity of service
17 and domestic water from the West Kern Water
18 District, the project will utilize water produced
19 from the oil fields and return to the oil
20 operations as steam.

21 The small amount of wastewater produced
22 by the plant will be sent to Valley Waste for
23 disposal via the TCI utility corridor.

24 The GE turbines will utilize dry low NOx
25 combustors, each exhausting into an unfired heat

1 recovery steam generator. The heat recovery steam
2 generators will be equipped with selective
3 catalytic reduction, SCR, with ammonia injection
4 to reduce NOx emissions.

5 Electricity generated by the plant will
6 be stepped up to 230 kV at a substation to be
7 constructed at the plant site. And transmitted to
8 the PG&E Midway Substation at Buttonwillow via a
9 23-mile long transmission line.

10 Natural gas is the only fuel proposed
11 for the project, and it will be delivered from the
12 Kern River Gas Transmission Mojave Pipeline
13 Company through a 20-inch existing TCI pipeline.

14 We will be constructing a 60-foot
15 connector piece from our project to the existing
16 natural gas line that TCI has in place.

17 Project construction is scheduled to
18 commence upon receipt of the CEC license, and
19 commercial operation is anticipated on May 1,
20 2001. Construction of the plant will employ a
21 peak workforce of 255 personnel. Operation of the
22 plant will employ a permanent workforce of 24
23 personnel.

24 That's the end of my testimony.

25 MR. GRATTAN: Thank you. The witness is

1 tendered to the Committee --

2 PRESIDING MEMBER MOORE: Thank you very
3 much. Any questions from staff?

4 MS. HOLMES: No questions from staff.

5 HEARING OFFICER FAY: Any objection to
6 receiving those exhibits?

7 MS. HOLMES: No.

8 PRESIDING MEMBER MOORE: Let me just
9 ask, any questions from the intervenors?

10 MS. POOLE: No questions.

11 HEARING OFFICER FAY: Anyone in the
12 audience, any questions on that? Commissioner
13 Rohy?

14 EXAMINATION

15 VICE CHAIRMAN ROHY: Yes, I'd just like
16 to ask a question on the heat rate. I'm fairly
17 new to this case and I wondered if that's
18 described in some section that I can look at? Was
19 it 4600 Btus that you used as a number?

20 MR. DINKEL: Yeah, the --

21 MR. GALATI: It's in section 9 of the
22 AFC, appendix I, part 8.

23 VICE CHAIRMAN ROHY: And then is this
24 proposed facility going to run -- is the proposal
25 to run it 24 hours a day?

1 MR. DINKEL: It will be operated as a
2 baseload plant.

3 MR. GRATTAN: If there are no objections
4 I would like to move Mr. Dinkel's sponsored
5 testimony into the record.

6 PRESIDING MEMBER MOORE: So moved.

7 HEARING OFFICER FAY: Thank you.

8 (The above-referenced document,
9 previously marked Applicant exhibit
10 35, was received in evidence.)

11 HEARING OFFICER FAY: I'd now like to
12 move to the staff.

13 MS. HOLMES: Staff's witness on project
14 description is Marc Pryor.

15 HEARING OFFICER FAY: Please swear the
16 witness.\Whereupon,

17 MARC PRYOR
18 was called as a witness herein, and after first
19 having been duly sworn, was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. HOLMES:

23 Q Mr. Pryor, do you have with you today a
24 copy of the exhibit 23, which has been identified
25 as the final staff assessment?

1 A Yes.

2 Q And did you prepare the project
3 description portion of that testimony?

4 A Yes.

5 Q And is there a statement of your
6 qualifications contained in exhibit 23?

7 A Yes.

8 Q Do you have any changes or corrections
9 to your testimony at this time?

10 A No.

11 Q Are the facts contained in your
12 testimony true and correct to the best of your
13 knowledge?

14 A Yes.

15 Q And do the opinions contained in your
16 testimony represent your best professional
17 judgments?

18 A They do.

19 MS. HOLMES: Mr. Pryor's available for
20 cross-examination.

21 PRESIDING MEMBER MOORE: Questions, Mr.
22 Grattan?

23 MR. GRATTAN: None.

24 PRESIDING MEMBER MOORE: From the
25 intervenors?

1 MS. POOLE: No questions.

2 PRESIDING MEMBER MOORE: Commissioner
3 Rohy?

4 VICE CHAIRMAN ROHY: No.

5 PRESIDING MEMBER MOORE: Mr. Pryor,
6 thank you for your written comments.

7 HEARING OFFICER FAY: Just one question,
8 Mr. Pryor, and I reserve this for staff because of
9 their familiarity with dealing with the
10 environmental analysis aspects under the Warren
11 Alquist Act.

12 EXAMINATION

13 HEARING OFFICER FAY: But if you'd just
14 summarize the importance of what has been referred
15 to as the blueprint, that is the scoping order
16 that the Committee adopted, that was agreed to by
17 staff and applicant, and submitted? And how or
18 why a cogeneration plant such as Sunrise is
19 analyzed somewhat differently than a simple
20 generation plant?

21 MR. PRYOR: The joint blueprint was
22 submitted on May 21st. It was adopted by the
23 Committee, I believe, on June 4th. It mentioned
24 it provides guidance for analyzing the
25 environmental effects of the Sunrise Cogeneration

1 Project mentioning direct effects of temporary and
2 permanent, indirect effects, temporary and
3 permanent, and the same for cumulative.

4 The cogen plant nature in this regard
5 that is providing steam for thermally enhanced oil
6 recovery. And there are additional new oil
7 production and steam wells, 700, that are going to
8 result from this project, for that part of it.

9 That is different from just a non-
10 cogeneration plant that would not have these sorts
11 of effects of new wells.

12 HEARING OFFICER FAY: Is that because it
13 would not be generating steam as part of the power
14 plant project?

15 MR. PRYOR: Correct -- well, it could be
16 generating steam, but that may go to a steam
17 turbine generator instead of TEOR --

18 HEARING OFFICER FAY: I see. Thank you.
19 Any further questions?

20 All right. Thank you, Mr. Pryor.

21 MS. HOLMES: Do you want us to be moving
22 in the various portions of exhibit 23 --

23 HEARING OFFICER FAY: I think so.

24 MS. HOLMES: -- as each witness is
25 finished?

1 All right, in that case then I would
2 move that the portions of exhibit 23 that Mr.
3 Pryor is sponsoring be entered as evidence at this
4 time.

5 HEARING OFFICER FAY: Any objection?

6 Hearing none, so moved.

7 (The above-referenced document,
8 previously marked CEC Staff exhibit
9 23, section, was received in
10 evidence.)

11 HEARING OFFICER FAY: Thank you. Now we
12 will ask for the applicant's witness on
13 alternatives.

14 MR. GRATTAN: Yes, if I can excuse Paul
15 Dinkel; and Julie Way is at the microphone and
16 Julie would testify also as to project objectives.
17 I presume we can do those as now one iteration?

18 HEARING OFFICER FAY: That's okay.

19 PRESIDING MEMBER MOORE: It's fine.

20 Whereupon,

21 JULIE WAY
22 was recalled as a witness herein, and having been
23 previously duly sworn, was examined and testified
24 further as follows:

25 MR. GRATTAN: Ms. Way, you've been sworn

1 in.

2 DIRECT EXAMINATION

3 BY MR. GRATTAN:

4 Q Have you prepared testimony regarding
5 the project objectives?

6 A Yes, I've prepared the project
7 objectives testimony as part of the applicant's
8 package.

9 Q And are you sponsoring that testimony?

10 A Yes, I'm sponsoring section 1.1.

11 Q And any exhibits, also?

12 A I'm sponsoring section 1.1 of exhibit 1.

13 Q Okay, and can you affirm your testimony
14 under oath today?

15 A Yes.

16 Q Any corrections or modifications?

17 A No.

18 Q Could you please summarize your
19 testimony?

20 A Yes, I would just like to point out one
21 key aspect of the objectives for the project, and
22 the primary objective of this project is to
23 provide clean, low-cost, efficient power to the
24 deregulated market, and to provide steam to the
25 adjacent oil field for use in its EOR operations.

1 Q Thank you, so your testimony that this
2 is a cogeneration project with dual objectives?

3 A Yes.

4 MR. GRATTAN: Cross-examination.

5 PRESIDING MEMBER MOORE: It seems pretty
6 straightforward. Do you want to go into the
7 alternatives while you have the floor?

8 MR. GRATTAN: Okay, right.

9 BY MR. GRATTAN:

10 Q Did you prepare the alternatives
11 testimony?

12 A I did.

13 Q And are you sponsoring that testimony
14 today?

15 A Yes, I'm sponsoring section 5, project
16 alternatives of exhibit 1.

17 Q Thank you. And you can affirm that
18 testimony under oath today?

19 A Yes.

20 Q And could you summarize that testimony,
21 please?

22 A Yes. In section 5, the alternative
23 sections, I'm sponsoring that analysis and we
24 described alternatives with respect to site,
25 transmission corridors, fuels and a variety of

1 other considerations.

2 And today I would like to talk
3 specifically about why cogeneration mode was
4 selected as the configuration for this plant.

5 First of all, one of the alternatives,
6 the one that most commonly come to mind is stand-
7 alone, combined cycle plant. And in a combined
8 cycle plant there would be additional electricity
9 produced per unit of natural gas formed. And
10 that's because a steam turbine is incorporated
11 into a combined cycle plant. And the steam that
12 Sunrise will be sending to the oil field will be
13 used to produce electricity instead.

14 However, as Paul Dinkel noted in the
15 project description testimony, the efficiency of
16 the combined cycle project is much less than that
17 of a cogeneration project when taken into account
18 the useful energy provided to the oil field in the
19 form of steam.

20 The overall efficiency of the Sunrise
21 Plant is 87 percent, as stated earlier.

22 In addition to these efficiencies,
23 cogeneration cycle has some obvious environmental
24 benefits. Because there's no cooling tower
25 associated with the cogeneration cycle, the

1 consumptive fresh water use for this plant is
2 minimized. And also because of that particular
3 aspect of this cycle there's also no large
4 wastewater discharge stream as you would have in a
5 combined cycle project with a cooling tower.

6 And in addition to that, there are no
7 potentially hazardous chemicals which are used in
8 the cooling water treatment process. The
9 cogeneration mode avoids all of those
10 environmental impacts.

11 Another alternative would be to build a
12 simple cycle, stand-alone project. And that cycle
13 would also not have a cooling tower and its
14 associated environmental impacts as part of that
15 cycle.

16 However, in a simple cycle mode all of
17 the exhaust heat generated by the gas turbine is
18 discharged to the atmosphere which is very
19 wasteful use of resources, and also not an
20 economic project.

21 In addition, a stand-alone project would
22 also not serve the thermal host in its oil field
23 expansion needs. However, it would not avoid the
24 impacts associated with that expansion, since
25 under the most likely scenario the oil field would

1 continue to look for other ways to meet its steam
2 demand, such as use of conventional steam
3 generators.

4 In summary, we believe that the greater
5 efficiency of the cogeneration project will give
6 Sunrise a competitive margin in a deregulated
7 market, even over the most efficient new combined
8 cycle project.

9 And another important aspect of
10 cogeneration from a owners standpoint is that we
11 recognize steam cells offer a way to minimize
12 market risk due to volatility of power pricing.
13 And at the time the feasibility studies for this
14 project were performed, all the merchant plants,
15 which to my knowledge had reached or achieved
16 financial closure at that time, had some form of
17 steam or power sales agreements to help minimize
18 their risk.

19 That concludes my testimony.

20 Q Point of clarification. Do you have any
21 data or any figures regarding how much more
22 efficient in terms of fuel use, fuel use in terms
23 of dollars, that a cogeneration plant would be,
24 versus a new combined cycle plant?

25 A Compared to a new combined cycle plant

1 at the most optimum heat rates that I have seen to
2 date, Sunrise will consumer, in terms of dollars
3 per megawatt hour, \$3 per megawatt less fuel than
4 the most efficient combined cycle plant.

5 Q Thank you.

6 MR. GRATTAN: The witness is yours. I
7 would like to add that Ms. Way's r, sum, stating
8 her qualifications has been previously submitted
9 as part of her testimony package.

10 VICE CHAIRMAN ROHY: May I ask her
11 repeat the answer to the last question? I didn't
12 hear the critical part of the sentence. We have
13 an air conditioning duct down here which competes.

14 MS. WAY: I'm sorry, I was hoping this
15 would be a real microphone.

16 When you compare the fuel use for a new
17 combined cycle plant, the most efficient combined
18 cycle plant on the market today, Sunrise will
19 consume, in terms of dollars per megawatt hour, \$3
20 per megawatt hour less fuel.

21 VICE CHAIRMAN ROHY: Thank you.

22 PRESIDING MEMBER MOORE: Thank you very
23 much. Questions from staff?

24 MS. HOLMES: No questions.

25 PRESIDING MEMBER MOORE: Questions from

1 the intervenors?

2 MS. POOLE: No questions.

3 PRESIDING MEMBER MOORE: Mr. Fay?

4 HEARING OFFICER FAY: No. Mr. Grattan.

5 MR. GRATTAN: We need to move the
6 exhibits sponsored by this lady into the record.

7 HEARING OFFICER FAY: Is there
8 objection? Hearing none, so moved.

9 (The above-referenced documents,
10 previously marked Applicant exhibit
11 1, sections 1.1 and 5, were
12 received in evidence.)

13 PRESIDING MEMBER MOORE: I should get to
14 that at the front end of it, and I'll get better.
15 Thank you, Ms. Way, appreciate it.

16 Mr. Fay, next item is?

17 HEARING OFFICER FAY: Staff's witness on
18 alternatives.

19 MS. HOLMES: Staff's witness on
20 alternatives is Eileen Allen. She needs to be
21 sworn.

22 Whereupon,

23 EILEEN ALLEN

24 was called as a witness herein, and after first
25 having been duly sworn, was examined and testified

1 as follows:

2 DIRECT EXAMINATION

3 BY MS. HOLMES:

4 Q Good morning, Ms. Allen. Do you have
5 with you a copy of exhibit 23, the final staff
6 assessment?

7 A Yes, I do.

8 Q And did you prepare the alternatives
9 portion of exhibit 23?

10 A I did.

11 Q And is the statement of your
12 qualifications included in exhibit 23?

13 A Yes, it is.

14 Q Do you have any changes or corrections
15 to your testimony at this time?

16 A No.

17 Q Are the facts contained in your
18 testimony true and correct to the best of your
19 knowledge?

20 A Yes.

21 Q And do the opinions contained in your
22 testimony represent your best professional
23 judgment?

24 A Yes.

25 Q Would you please provide a very brief

1 summary of your testimony and it's conclusions?

2 A Yes. Staff is required to examine the
3 feasibility of available site facility
4 alternatives to the applicant's cogeneration
5 project proposal which substantially lessen the
6 significant adverse impacts of the proposal on the
7 environment.

8 Christina Bergquist and I prepared this
9 alternatives analysis which identifies the
10 applicant's basic objectives, potentially
11 significant impacts of the project, technology
12 alternatives, and alternative sites that had the
13 potential for reducing or avoiding significant
14 impacts.

15 In addition to electric generation, the
16 Sunrise Project will be providing steam for TCI's
17 thermally enhanced oil recovery operations, which
18 are adjacent to the site.

19 Given the cogeneration nature of the
20 project we looked for alternative sites that were
21 no further than three-quarters of a mile from the
22 steam host, TCI.

23 With respect to alternatives sites we
24 looked at two in addition to the proposed site.
25 The alternatives sites are Sunrise's alternative

1 site mentioned in the AFC, which was the site
2 proposed for the Fellows Cogen Project in 1994.
3 And a site adjacent to the existing Midway-Sunset
4 Cogeneration Plant.

5 We also discussed other site
6 alternatives within the Midway-Sunset oil field,
7 but found that other areas with minimal to
8 moderate development were not superior to the
9 proposed site.

10 We also analyzed the no-project
11 alternative. This alternative assumes that the
12 project is not built, and it's compared to the
13 proposed project.

14 We concluded that the mitigation
15 measures proposed by Sunrise will reduce any
16 impacts to less than significant levels. Staff
17 believes that overall the no-project alternative
18 is not superior to the proposed project because of
19 the energy efficiency and related fuel savings
20 benefits of a cogeneration project.

21 After examining the two alternative
22 sites and the proposed Sunrise site, staff found
23 that using the proposed site and its related
24 linear facilities with mitigation measures would
25 result in the least environmental impact.

1 Since there are no unmitigated
2 significant adverse impacts, there are no issues.
3 Therefore, staff is not proposing any alternative
4 site, related facility or technology options.

5 Q Does that complete your testimony?

6 A Yes, it does.

7 MS. HOLMES: Ms. Allen is available for
8 cross-examination.

9 PRESIDING MEMBER MOORE: Thank you and
10 we need to move -- I'll try and get this at the
11 front end now, to move that testimony in.

12 MS. HOLMES: Do you prefer to do it
13 before cross-examination or after, Mr. Fay?

14 HEARING OFFICER FAY: I think
15 immediately after is fine.

16 MS. HOLMES: Okay. Then if that's
17 acceptable, then I would move that the
18 alternatives portion of exhibit 23 be entered into
19 the record.

20 PRESIDING MEMBER MOORE: Thank you. Mr.
21 Grattan?

22 HEARING OFFICER FAY: Any objection?

23 MR. GRATTAN: No objection.

24 HEARING OFFICER FAY: All right, so
25 moved.

1 (The above-referenced document,
2 previously marked Applicant exhibit
3 23, section, was received in
4 evidence.)

5 PRESIDING MEMBER MOORE: Any questions,
6 Mr. Grattan?

7 MR. GRATTAN: No.

8 PRESIDING MEMBER MOORE: And questions
9 from the intervenors?

10 MS. POOLE: No questions.

11 PRESIDING MEMBER MOORE: Thank you.
12 Commissioner Rohy?

13 VICE CHAIRMAN ROHY: No questions.

14 PRESIDING MEMBER MOORE: Shawn?

15 MR. PITTARD: I have one question.

16 EXAMINATION

17 MR. PITTARD: At this time there are a
18 number of subjects that have yet to be filed in
19 this case, among them air quality and public
20 health. I'm wondering if your conclusions that
21 there are no significant adverse environmental
22 impacts that are unmitigated can be made at this
23 time?

24 Or, do you need to wait for those other
25 subject areas to reach their conclusions before

1 you can do that?

2 MS. HOLMES: I'm sorry, are you asking
3 the witness that question or are you asking me
4 that question?

5 MR. PITTARD: The witness. But I can
6 ask you, if you'll answer it.

7 MS. ALLEN: I'd like to confer with
8 staff counsel.

9 MS. HOLMES: May we go off the record,
10 Mr. Hearing Officer?

11 PRESIDING MEMBER MOORE: Certainly.

12 HEARING OFFICER FAY: Yeah, we're off
13 the record.

14 (Off the record.)

15 HEARING OFFICER FAY: All right.

16 MS. HOLMES: Would you repeat the
17 question for the witness, please?

18 MR. PITTARD: Yes. At this point in
19 time, well, let me start here, your testimony has
20 a conclusionary statement in it that says there
21 are no significant unmitigated adverse impacts.

22 However, all of staff's testimony hasn't
23 been filed. And so we haven't seen the testimony
24 on air quality and public health which are usual
25 rub areas. So, prior to seeing that testimony and

1 having hearings on that subject, can you make that
2 statement yet, or should we keep the record open
3 on this?

4 MS. ALLEN: I prepared this testimony
5 based on the preliminary conclusions in those
6 areas that were available at the time.

7 Once the testimony in those areas is
8 filed, if there are conclusions that would cause
9 me to change my alternative section conclusions, I
10 will file an amendment to this testimony.

11 PRESIDING MEMBER MOORE: Then I'll tell
12 you what, then we'll keep the record open on this.
13 And come back to it and close it up at the end.
14 In fact, procedurally, I'd appreciate the
15 comments. And it's probably a better way to
16 handle it in terms of keeping the record straight.

17 Any objections to that, Mr. Grattan?

18 MR. GRATTAN: No.

19 PRESIDING MEMBER MOORE: No. Okay.
20 Thank you. What is our next item?

21 HEARING OFFICER FAY: The next item is
22 general conditions, compliance monitoring and
23 closure. And what I'd like to do is see if
24 there's any objection to taking the testimony from
25 both the applicant and the staff on declaration.

1 I hear no objection, so, Mr. Grattan,
2 why don't you go ahead.

3 MR. GRATTAN: I would like to point out
4 that David Stein, who was overall manager of the
5 application preparation is here to answer
6 questions if there are any on those subjects.

7 HEARING OFFICER FAY: I appreciate that.
8 Do you want to offer his testimony and
9 declaration.

10 MR. GRATTAN: Yeah, we should move in
11 the exhibits sponsored in that testimony.

12 HEARING OFFICER FAY: Is there objection
13 to receiving into evidence the exhibits
14 identified, Mr. Stein's testimony on general
15 conditions?

16 Hearing none, so moved.

17 (The above-referenced document,
18 previously marked Applicant exhibit
19 1, section, was received in
20 evidence.)

21 HEARING OFFICER FAY: Any objection to
22 receiving as filed?

23 All right, the testimony is received on
24 his declaration.

25 And now we'll move to the staff.

1 MS. HOLMES: Thank you, staff's
2 testimony on general conditions as contained in
3 exhibit 3, beginning on page 353, the staff
4 witness is Nancy Tronas, and a copy of her
5 qualifications was also included in exhibit 23.
6 If there are questions Mr. Najarian is available
7 to answer them. If there are no questions I would
8 move that that portion of exhibit 23 be entered
9 into the record at this time.

10 HEARING OFFICER FAY: Objections?

11 MR. GRATTAN: No objection.

12 HEARING OFFICER FAY: All right, that
13 portion is moved into evidence, as is the
14 affidavit of Ms. Tronas on general conditions.

15 (The above-referenced documents,
16 previously marked Applicant exhibit
17 3, section, and exhibit 23,
18 section, were received in
19 evidence.)

20 HEARING OFFICER FAY: And just for the
21 record, Mr. Grattan, could you identify the
22 portions of the exhibit that Mr. Stein is
23 sponsoring?

24 MR. GRATTAN: Yes, sir, I can. On need
25 the exhibits are AFC and revision section 4. And

1 on general compliance conditions, --

2 (Off-the-record discussion.)

3 MR. GRATTAN: Those are the general
4 compliance.

5 HEARING OFFICER FAY: Thank you. All
6 right.

7 Then we'll move on to receiving evidence
8 and live witnesses on need conformance.

9 MR. GRATTAN: Need conformance was to be
10 done by declaration, I believe, we agreed.

11 HEARING OFFICER FAY: It's not
12 identified as such.

13 MR. GRATTAN: We mentioned it at the
14 beginning --

15 HEARING OFFICER FAY: Right, and
16 Commissioner Moore said he'd like to --

17 MR. GRATTAN: Oh, I'm sorry.

18 HEARING OFFICER FAY: -- question the
19 witnesses. So we'd like you to call --

20 MR. GRATTAN: David Stein.

21 HEARING OFFICER FAY: -- Mr. Stein, he's
22 available, obviously?

23 MR. GRATTAN: I apologize Commissioner
24 Moore.

25 HEARING OFFICER FAY: That's all right.

1 Please swear the witness.

2 Whereupon,

3 DAVID STEIN

4 was called as a witness herein, and after first
5 having been duly sworn, was examined and testified
6 as follows:

7 DIRECT EXAMINATION

8 BY MR. GRATTAN:

9 Q Can you give your name, address and
10 current employment?

11 A My name is David Stein. I live in
12 Danville, California, and I am a Senior Project
13 Manager with Radian International.

14 Q Did you prepare and previously submit
15 written testimony in the AFC proceeding?

16 A Yes, I did.

17 Q And what section was that on, or what
18 area was that on?

19 A It was on need conformance.

20 Q Okay. Are you sponsoring any exhibits
21 at the hearing?

22 A Yes. I'm sponsoring exhibit 1, sections
23 1.4 and 3, and exhibit 7, Sunrise Comments on the
24 PSA, page 6.

25 Q And can you affirm your testimony under

1 oath today?

2 A Yes.

3 Q Any corrections or modifications to that
4 testimony?

5 A No.

6 Q Would you please summarize your
7 testimony on need?

8 A Surely. The California Public Resources
9 Code requires that the CEC find that proposed new
10 power plants are in conformance with the CEC's
11 most recent integrated assessment of need in order
12 to be certified.

13 The integrated assessment of need
14 criteria specifies that so long as the total
15 capacity of new power plants permitted under ER-96
16 does not exceed 6737 megawatts, that the power
17 project will be presumed to be needed.

18 During the pendency of ER-96 the Sunrise
19 Project capacity, in combination with other power
20 projects which either have been or could be
21 permitted, under this governing integrated
22 assessment of need, would not exceed 6737
23 megawatts.

24 Therefore the Sunrise Project can be
25 found to be in conformance with the CEC's

1 governing integrated assessment of need.

2 Q Does that conclude your testimony?

3 A It does.

4 MR. GRATTAN: The witness is tendered
5 for cross-examination.

6 HEARING OFFICER FAY: I think we'll have
7 you move those exhibits into evidence at this time
8 before we --

9 MR. GRATTAN: Okay, request we move the
10 exhibits sponsored by Mr. Stein.

11 HEARING OFFICER FAY: Any objection?

12 MS. HOLMES: No objection.

13 HEARING OFFICER FAY: Hearing none, so
14 moved.

15 (The above-referenced documents,
16 previously marked Applicant
17 exhibits 1, sections 1.4 and 3,
18 exhibit 7, page 6, were received in
19 evidence.)

20 PRESIDING MEMBER MOORE: Questions from
21 staff?

22 MS. HOLMES: No questions.

23 PRESIDING MEMBER MOORE: From the
24 intervenors?

25 MS. POOLE: No questions.

1 PRESIDING MEMBER MOORE: Commissioner
2 Rohy?

3 VICE CHAIRMAN ROHY: None.

4 HEARING OFFICER FAY: Just briefly.

5 EXAMINATION

6 HEARING OFFICER FAY: Mr. Stein, are you
7 aware of the displacement that this project might
8 do to existing older plants that are perhaps less
9 efficient and not as clean as the proposed Sunrise
10 Plant?

11 MR. STEIN: I am generally aware that it
12 is possible that in the deregulated market that
13 more efficient power generation may displace
14 older, less efficient power generation.

15 HEARING OFFICER FAY: And given the
16 location and the electrical tie-in for this
17 project, where would you estimate that type of
18 displacement might occur? Is it localized at all
19 in the state?

20 MR. STEIN: I wouldn't -- I haven't done
21 a specific evaluation. I wouldn't venture an
22 opinion on that.

23 HEARING OFFICER FAY: All right, thank
24 you. That's all I have.

25 PRESIDING MEMBER MOORE: Nothing else,

1 okay. Staff.

2 MS. HOLMES: Staff's witness on need
3 conformance is Ron Wetherall and he does need to
4 be sworn.
5 Whereupon,

6 RON WETHERALL
7 was called as a witness herein, and after first
8 having been duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MS. HOLMES:

12 Q Good morning, Mr. Wetherall. Did you
13 prepare the need conformance testimony contained
14 in exhibit 23?

15 A Yes, I did.

16 Q And is there a statement of your
17 qualifications also in exhibit 23?

18 A Yes, there is.

19 Q Do you have any changes or corrections
20 to your testimony?

21 A No, I don't.

22 Q Are the facts contained in your
23 testimony true and correct to the best of your
24 knowledge?

25 A Yes, they are.

1 Q And do the opinions contained in your
2 testimony represent your best professional
3 judgment?

4 A Yes, they do.

5 MS. HOLMES: We would move that the need
6 conformance testimony, portion of exhibit 23, be
7 moved into evidence. And at that point Mr.
8 Wetherall is available for cross-examination.

9 PRESIDING MEMBER MOORE: Well, let's ask
10 Mr. Wetherall to just summarize his comments.

11 MR. WETHERALL: Okay, --

12 HEARING OFFICER FAY: Excuse me, without
13 objection that is moved in --

14 MR. GRATTAN: Without objection.

15 HEARING OFFICER FAY: -- the record at
16 this point.

17 (The above-referenced document,
18 previously marked CEC Staff exhibit
19 23, section, was received in
20 evidence.)

21 MR. WETHERALL: Currently, under state
22 law, the Energy Commission cannot certify a
23 proposed electric generation facility unless it
24 finds that the project conforms with the
25 integrated assessment of need contained in the

1 Commission's most recent electricity report, which
2 is ER-96.

3 After completing my analysis I find that
4 the Sunrise Energy Center shall be in conformance
5 with the ER-96 integrated assessment of need as
6 long as the total number of megawatts permitted
7 under ER-96, including this project's capacity,
8 does not exceed 6737 at the time of project
9 approval.

10 PRESIDING MEMBER MOORE: Thank you.

11 MR. GRATTAN: No cross.

12 PRESIDING MEMBER MOORE: No cross, and
13 any from the intervenors?

14 MS. POOLE: No.

15 PRESIDING MEMBER MOORE: All right.
16 Gary.

17 HEARING OFFICER FAY: I would just as
18 the same thing.

19 EXAMINATION

20 HEARING OFFICER FAY: Mr. Wetherall, is
21 there any way to advise the Committee on whether
22 there's likely to be displacement based on where
23 this project ties into the grid?

24 MR. WETHERALL: It is possible, though
25 we have not conducted any specific analysis to

1 determine the magnitude or where it may be
2 located. So we do not have any specifics to offer
3 at this point.

4 HEARING OFFICER FAY: Okay. But it is
5 not necessarily a statewide type of displacement?
6 There are localized constraints that do influence
7 that, is that correct?

8 MR. WETHERALL: Without doing a specific
9 analysis I really couldn't say where the effects
10 would be felt. It is possible that they could be
11 local, or it could be realized in some other part
12 of the state.

13 HEARING OFFICER FAY: Okay. Thank you,
14 that's all I have.

15 PRESIDING MEMBER MOORE: Thank you.
16 With that, the next topic is facility design.

17 MR. GRATTAN: Yes, we call Steve Clark.
18 Actually, my understanding is that the staff
19 wanted to put on a witness first.

20 MS. HOLMES: I do seem to have eager
21 staff here, so --

22 HEARING OFFICER FAY: I don't see Mr.
23 Clark listed in your prehearing conference
24 statement. Is he --

25 MR. GRATTAN: In our amended statement

1 he's listed as testifying for facility design.

2 HEARING OFFICER FAY: I see, okay.

3 Fine. And he's testifying on behalf of all of --

4 MR. GRATTAN: He can testify with regard
5 to all the elements.

6 PRESIDING MEMBER MOORE: And you're
7 asking to start first?

8 MS. HOLMES: Yes, and I have one other
9 procedural matter to bring up --

10 PRESIDING MEMBER MOORE: All right, go
11 ahead.

12 MS. HOLMES: And that is that there
13 apparently was not a declaration included in the
14 final staff assessment, and given that there are
15 three witnesses, not just Mr. Baker sponsoring, I
16 think it would be appropriate to mark it as an
17 exhibit and docket it today.

18 HEARING OFFICER FAY: I'm sorry, I
19 didn't hear the last, to mark it as --

20 PRESIDING MEMBER MOORE: Docket it
21 today, to mark it as an exhibit and docket it
22 today.

23 HEARING OFFICER FAY: The declarations?

24 MS. HOLMES: Yes, because of the fact
25 that the testimony is sponsored by three

1 witnesses, two of whom are not here, so I cannot
2 ask the questions --

3 HEARING OFFICER FAY: All right. Those
4 will be -- this is for?

5 MS. HOLMES: This is a single
6 declaration that's signed by Al McKuen, M.
7 Kisabuli, and Steve Baker dated October 12, 1999.

8 HEARING OFFICER FAY: That will be
9 exhibit 26.

10 (The above-referenced document was
11 marked CEC Staff exhibit 26 for
12 identification.)

13 MS. HOLMES: And I believe that before
14 we proceed Mr. Baker needs to be sworn.
15 Whereupon,

16 STEVE BAKER
17 was called as a witness herein, and after first
18 having been duly sworn, was examined and testified
19 as follows:

20 HEARING OFFICER FAY: Just for
21 clarification I had advised staff and mentioned
22 this to applicant, that we would take staff's
23 presentation first to try to clarify some of the
24 apparent disagreement existing, and perhaps save
25 some time that way.

1 MS. HOLMES: Thank you.

2 DIRECT EXAMINATION

3 BY MS. HOLMES:

4 Q Good morning, Mr. Baker. Did you
5 prepare the facility design section of the final
6 staff assessment which has been identified as
7 exhibit 23?

8 A I prepared a portion of it, and it was
9 prepared under my direction.

10 Q So the rest of it was prepared under
11 your direction. And is a statement of your
12 qualifications also contained in exhibit 23?

13 A Yes, it is.

14 Q Did you also prepare errata to staff's
15 testimony on facility design in a document that
16 has been labeled as exhibit 25?

17 A Yes.

18 Q Was that testimony prepared in response
19 to the testimony of Sunrise that's been identified
20 as exhibit 22?

21 A Yes.

22 Q Okay, with those changes, do you have
23 any additional changes or corrections to your
24 testimony?

25 A No.

1 Q And with those changes are the facts
2 contained in your testimony true and correct?

3 A Yes, they are.

4 Q And do the opinions contained in your
5 testimony represent your best professional
6 judgment?

7 A They do.

8 Q Would you like to briefly summarize your
9 testimony and the errata?

10 A Facility design encompasses the areas of
11 civil, structural, mechanical and electrical
12 engineering. The purpose of the facility design
13 testimony is to gain assurance that the project
14 will likely be designed and built to applicable
15 engineering laws, ordinances, regulations and
16 standards. And to establish a process to verify
17 compliance of these laws.

18 To accomplish this staff reviews the
19 applicant's proposed design criteria, identifies
20 any special design features or procedures that may
21 be required, and crafts a compliance monitoring
22 program centered around a set of conditions of
23 certification.

24 Staff concludes that the project can be
25 designed and constructed in accordance with all

1 applicable engineering laws. And we propose a set
2 of 23 conditions of certification to insure and
3 monitor this compliance.

4 The errata that I propose to this
5 testimony today makes several small additions to
6 the testimony.

7 On page 299, under the heading civil
8 structural features, in the second paragraph,
9 second sentence, staff recommends that pile
10 foundations -- add these words -- or an
11 alternative be used to support the major project
12 structures and equipment.

13 An alternative method -- add these
14 words -- where appropriate, would be, et cetera.

15 The second change is on page 305 under
16 recommendations. Recommendation number four,
17 since the site soil -- add these words -- in some
18 areas; and the next sentence, an alternative
19 method -- subtract the words -- would be to
20 replace, and add the words -- such as replacing
21 the soil -- subtract the words -- at the power
22 plant footprint with engineered fill -- add the
23 words -- may be used to mitigate the condition.

24 The next change is on page 315, under
25 construction structural 1. In the list of items

1 delete the third, pile foundations, and renumber
2 the following items, 3 through 5.

3 Then down under protocol, item number 2,
4 requirements of the '98 CBC -- add the words -- if
5 pilings are used.

6 And the final erratum, pages 318-319
7 under condition mechanical 2. In the
8 verification, remove the words -- final design
9 plans specifications and calculations, including a
10 copy of the signed and stamped engineer's
11 certification. And add the words -- the above
12 listed documents.

13 Those are the errata.

14 Q Thank you.

15 MS. HOLMES: At this point I'd like to
16 move that the facility design portion of exhibit
17 23 and exhibit 25 and exhibit 26 be entered as
18 evidence.

19 HEARING OFFICER FAY: Any objection?

20 MR. GRATTAN: No objection.

21 HEARING OFFICER FAY: All right, so
22 moved.

23 (The above-referenced documents,
24 previously marked CEC Staff
25 exhibits 23, 25 and 26, sections,

1 were received in evidence.)

2 MS. HOLMES: Mr. Baker is available for
3 cross-examination.

4 HEARING OFFICER FAY: Are copies of the
5 errata available?

6 MR. PRYOR: I've not made copies yet,
7 sir.

8 HEARING OFFICER FAY: All right, but
9 it's docketed today?

10 MR. PRYOR: It would be docketed today
11 and I can get copies.

12 HEARING OFFICER FAY: Today, okay.

13 MS. HOLMES: We can certainly make
14 copies available after lunch. We'll bring them to
15 the hearing room if that would be helpful.

16 PRESIDING MEMBER MOORE: That will work.

17 HEARING OFFICER FAY: Well, why don't we
18 see if the applicant feels the need for that.
19 Would that be helpful, --

20 MR. GRATTAN: Yeah we look at the --
21 excuse me.

22 HEARING OFFICER FAY: -- Mr. Grattan, to
23 have staff make copies available?

24 MR. GRATTAN: Yes, we'd at least like
25 one copy.

1 HEARING OFFICER FAY: Right, so as soon
2 as you can.

3 MS. HOLMES: Would this be a good time
4 to take a break so that they can look at it and
5 come back and see if they have --

6 PRESIDING MEMBER MOORE: We can do that.
7 Let's take a ten-minute break to 11:30.

8 (Brief recess.)

9 PRESIDING MEMBER MOORE: Let's
10 reconvene. I believe everyone now has copies of
11 the errata. And, Mr. Grattan, I'm going to ask if
12 you've got either questions on this, or a
13 statement?

14 MR. GRATTAN: I have just received the
15 errata, although our witness has had it for a few
16 moments more than I. If we can confer, I can get
17 back to you.

18 PRESIDING MEMBER MOORE: Well, --

19 HEARING OFFICER FAY: Sure. Well, --

20 MR. GRATTAN: If we can go off the
21 record here.

22 PRESIDING MEMBER MOORE: All right, I'll
23 tell you what. Let's carry this over till after
24 lunch, and then you can look at it in that --

25 MS. HOLMES: If I could make a

1 suggestion, perhaps we could take the next areas
2 that are in by declaration and have a longer lunch
3 break. We have some other issues we'd like to
4 discuss with --

5 PRESIDING MEMBER MOORE: That's fine.

6 All right, so we're going to hold on
7 your testimony on this part until after you've
8 solved the questions, as well. Come back to it
9 first thing after lunch. So that will be the
10 first thing up after lunch. Very good.

11 All right, let's --

12 HEARING OFFICER FAY: And we'd move to
13 power plant reliability and --

14 MS. HOLMES: Excuse me, could I just
15 make one thing clear, that means that Mr. Baker
16 needs to be available for cross-examination?

17 HEARING OFFICER FAY: Yes.

18 PRESIDING MEMBER MOORE: Right,
19 immediately after lunch.

20 MS. HOLMES: Thank you.

21 HEARING OFFICER FAY: And what we hope
22 to receive after lunch, Mr. Grattan, is your
23 witness sponsoring their testimony and --

24 MR. GRATTAN: And comments, yes, --

25 HEARING OFFICER FAY: Right.

1 MR. GRATTAN: -- on the errata.

2 HEARING OFFICER FAY: Would that give
3 you adequate time?

4 MR. GRATTAN: Certainly, certainly.

5 HEARING OFFICER FAY: Okay, good. Let's
6 go to power plant reliability then, and if there's
7 no objection we can take that testimony on
8 declaration.

9 PRESIDING MEMBER MOORE: Any objection?

10 HEARING OFFICER FAY: Mr. Grattan?

11 PRESIDING MEMBER MOORE: None?

12 MR. GRATTAN: Then I would offer Mr.
13 Clark's testimony on power plant reliability and
14 power plant efficiency previously submitted by
15 declaration, along with his qualifications
16 admitted into evidence.

17 And for the record that testimony
18 sponsors exhibit 1, portions of the AFC section
19 2.2, 2.3, 2.4, and I'm sorry, that's premature --
20 2.4 and that would be appendix I of exhibit 1,
21 part 8, heat balance and efficiency calculations.

22 And those are the exhibits for
23 reliability and power plant efficiency.

24 PRESIDING MEMBER MOORE: Objections?

25 MS. HOLMES: No objections.

1 PRESIDING MEMBER MOORE: All right, so
2 moved.

3 (The above-referenced documents,
4 previously marked Applicant
5 exhibits 1, sections 2.2, 2.3, 2.4
6 and part 8 appendix I, were
7 received in evidence.)

8 MS. HOLMES: Staff's testimony on power
9 plant reliability is found in exhibit 23, power
10 plant reliability begins on page 325; power plant
11 efficiency begins on page 333. The staff witness
12 is Mr. Baker. Exhibit 23 also contains his
13 qualifications and a declaration signed by him for
14 both technical areas.

15 So if there's no cross-examination I'd
16 like to move those portions of exhibit 23 into the
17 record at this time.

18 HEARING OFFICER FAY: Objection?
19 Hearing none, so moved.

20 (The above-referenced documents,
21 previously marked CEC Staff exhibit
22 23, sections, were received in
23 evidence.)

24 HEARING OFFICER FAY: All right. Then
25 if there's no objection we'll move to waste

1 management, and that can also be received on
2 declaration.

3 MR. GRATTAN: Yes. And at this point
4 I'd like to move that the declaration of Mr.
5 Luzuriaga on waste management be entered into the
6 record.

7 PRESIDING MEMBER MOORE: All right, any
8 objection to that? None?

9 MS. HOLMES: No objection.

10 PRESIDING MEMBER MOORE: So moved.

11 MR. GRATTAN: And the exhibits, sections
12 8.13 of the AFC, appendix G; exhibit 2, which is
13 the transmission supplement section 3.13; exhibit
14 5, responses to CEC data requests 106 and 107;
15 exhibit 6, response to CURE data requests,
16 specifically response 93; and exhibit 7, Sunrise
17 comments on the PSA, page 31 through 33.

18 PRESIDING MEMBER MOORE: So entered.

19 (The above-referenced documents,
20 previously marked Applicant
21 exhibits 1 section 8.13, appendix
22 G; 2, section 3.13; 5; and 6, were
23 received in evidence.)

24 PRESIDING MEMBER MOORE: Staff?

25 MS. HOLMES: Staff's testimony on waste

1 management is in exhibit 23, beginning on page
2 233, the witness is Mr. Mike Ringer, and exhibit
3 23 also contains a statement of his qualifications
4 and a declaration with respect to waste
5 management.

6 PRESIDING MEMBER MOORE: Any objections?

7 MR. GRATTAN: No objections.

8 HEARING OFFICER FAY: None.

9 MS. POOLE: None.

10 PRESIDING MEMBER MOORE: So entered.

11 (The above-referenced documents,
12 previously marked CEC Staff exhibit
13 23, sections, were received in
14 evidence.)

15 PRESIDING MEMBER MOORE: All right, we
16 can --

17 HEARING OFFICER FAY: Let's move to
18 transmission line safety.

19 PRESIDING MEMBER MOORE: -- transmission
20 line safety.

21 MR. GRATTAN: Yes, and I would move the
22 testimony of Mr. Robert L. Pearson on transmission
23 line safety and nuisance. His qualifications have
24 been submitted along with that declaration.

25 And if admitted he is sponsoring section

1 6.2 of the AFC, which is part of exhibit 1; part
2 of exhibit 2, the transmission supplement section
3 2.4; exhibit 4, appendix B, the errata to the
4 transmission supplement; and Sunrise comments on
5 the PSA; and responses to CURE data requests,
6 response 97(d) through (f); and again, the
7 comments on the preliminary staff assessment are
8 pages 26 through 28.

9 PRESIDING MEMBER MOORE: Thank you.
10 Objections?

11 HEARING OFFICER FAY: Any objection? So
12 moved.

13 (The above-referenced documents,
14 previously marked Applicant
15 exhibits 1, section 6.2; 2, section
16 2.4; appendix B, data request
17 responses, were received in
18 evidence.)

19 PRESIDING MEMBER MOORE: Staff?

20 MS. HOLMES: Staff's testimony on
21 transmission line safety and nuisance is found in
22 exhibit 23, beginning on page 41. The testimony
23 is sponsored by Dr. Odoemelum, who has included a
24 copy of his qualifications in a declaration in
25 exhibit 23.

1 If there are no questions I would ask it
2 be moved into the record at this time.

3 PRESIDING MEMBER MOORE: Any objections,
4 Mr. Grattan?

5 MR. GRATTAN: No.

6 PRESIDING MEMBER MOORE: None. From
7 intervenors?

8 MS. POOLE: No objection.

9 PRESIDING MEMBER MOORE: No objection,
10 all right. So moved.

11 (The above-referenced documents,
12 previously marked CEC Staff exhibit
13 23, sections, were received in
14 evidence.)

15 HEARING OFFICER FAY: Okay, thank you
16 all. Now, we will need live witnesses.

17 MS. HOLMES: We're attempting to obtain
18 them.

19 MR. GRATTAN: I'm wondering if the
20 applicant, we have split our paleontological
21 testimony and geological testimony. The issue
22 that I understand of possible adjudication between
23 staff and the applicant is geological,
24 specifically GEO3.

25 I wonder if we could sponsor the paleo

1 exhibit, the paleo testimony of Mr. Landers?

2 MS. HOLMES: We have no cross-
3 examination for either witness; however, staff is
4 prepared to respond to some questions on direct
5 examination about the statements made in both
6 pieces of testimony.

7 PRESIDING MEMBER MOORE: Let's hold both
8 at once. There's no reason to really, at least in
9 terms of continuity, paleontological resources are
10 intimately related to overall geology. So let's
11 not split them up.

12 HEARING OFFICER FAY: Will staff have
13 its witness available after lunch?

14 PRESIDING MEMBER MOORE: After lunch?
15 After lunch?

16 MS. HOLMES: We'd hoped to have our
17 witness on geology and paleontological resources
18 right now, but apparently he's not in the room.

19 PRESIDING MEMBER MOORE: Well, all
20 right, considering where we are, close to noon,
21 and people had asked for extra time, why don't we
22 just call a break right now. We'll go until 1:30,
23 give everyone plenty of time --

24 MS. HOLMES: Thank you, that would be
25 very helpful.

1 PRESIDING MEMBER MOORE: -- and then
2 we'll reconvene back here at 1:30.

3 Thank you, we're adjourned.

4 (Whereupon, at 11:40 a.m., the hearing
5 was adjourned, to reconvene at 1:30
6 p.m., this same day.)

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1 AFTERNOON SESSION

2 1:35 p.m.

3 PRESIDING MEMBER MOORE: Welcome back to
4 the afternoon session. We have been on a lunch
5 break, and we're back to pick up some of the items
6 continued from this morning.

7 And I understand there may be some
8 agreements that we can come to on other items that
9 were going to be held over.

10 As I indicated before we left, my
11 intention was to pick up on the facility design
12 issue first thing. And, so let me turn back to
13 staff. Mr. Baker is moving diligently up to the
14 front.

15 And so let's go back and just review
16 briefly for the record what the difficulties were,
17 some of this came in a little bit late, I think,
18 is that right?

19 MR. BAKER: Yes, sir.

20 DIRECT TESTIMONY

21 MR. BAKER: The errata proposed --

22 PRESIDING MEMBER MOORE: That's not
23 amplified, that's only recording.

24 MR. BAKER: Yes, sir. The errata
25 proposed were this, on page 299 of the final staff

1 assessment under civil structural features, in the
2 second paragraph, we added language to allow the
3 applicant to choose at the proper time what
4 engineering methods they would use to deal with
5 soils that might be susceptible to
6 hydrocompaction.

7 We inserted the words "or an
8 alternative" and "where appropriate" in order to
9 allow this flexibility during the design phase of
10 the project.

11 On page 305, under staff's
12 recommendations, paragraph numbered 4, we added
13 language to acknowledge that there may or may not
14 be soils subject to hydrocompaction under the
15 site, itself. And so, again allowing the
16 applicant the flexibility to design the project as
17 necessary.

18 On page 315, under the condition
19 structural 1, we removed the language specifically
20 relating to pile foundation, because whether pile
21 foundations are used or not will depend on the
22 design chosen to deal with any hydrocompactable
23 soils.

24 So we've taken out the specificity and
25 again allowed the applicant the flexibility to

1 design as necessary.

2 And finally, on pages 318, 319, under
3 the condition mechanical 2, we've fixed the
4 language to indicate that submittals will be of
5 the appropriate documentation, rather than trying
6 to re-designate in the verification portion of the
7 condition exactly what that documentation is.

8 PRESIDING MEMBER MOORE: Thank you very
9 much for clarifying that. Now, there was some
10 comment before we went to lunch that the applicant
11 did not have enough time to review these.

12 Have you, in fact, had enough time, Mr.
13 Grattan, you and your staff?

14 MR. GRATTAN: Yes, we have.

15 PRESIDING MEMBER MOORE: Are they clear
16 to you at this point?

17 MR. GRATTAN: Yes.

18 PRESIDING MEMBER MOORE: Both the
19 intention and the language?

20 MR. GRATTAN: Yes, they are.

21 PRESIDING MEMBER MOORE: And do you have
22 any disagreement with what staff is proposing?

23 MR. GRATTAN: We have no -- looking over
24 it, my expert, we have no disagreement with what
25 staff has proposed. And we are prepared to put on

1 our witness to get that on the record under oath.

2 We also have just a few more things we'd
3 like to

4 PRESIDING MEMBER MOORE: Good, let me
5 ask Mr. Baker --

6 MR. GRATTAN: -- have our witness
7 address.

8 PRESIDING MEMBER MOORE: -- if he has
9 anything else to add?

10 MR. BAKER: No, sir.

11 PRESIDING MEMBER MOORE: And, Ms.
12 Holmes?

13 MS. HOLMES: Nothing.

14 PRESIDING MEMBER MOORE: Nothing. All
15 right. Well, then, Mr. Grattan, you're on.

16 MR. GRATTAN: Very good. Well, actually
17 Mr. Clark is on.

18 PRESIDING MEMBER MOORE: Has Mr. Clark
19 been sworn?

20 MR. GRATTAN: He's not been sworn.

21 HEARING OFFICER FAY: Please swear the
22 witness.

23 Whereupon,

24 STEVE M. CLARK

25 was called as a witness herein and after first

1 being duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. GRATTAN:

5 Q Could you please state your name,
6 address and current employment?

7 A My name is Steve Clark. I'm a Project
8 Manager with Black & Veatch in Overland Park,
9 Kansas.

10 Q And have you previously prepared and
11 submitted written testimony, including your
12 qualifications?

13 A Yes, I have. I've prepared the facility
14 design testimony.

15 Q And -- yes, go ahead, I'm sorry.

16 A And the qualifications were included
17 with the testimony.

18 Q Are you sponsoring any exhibits at this
19 time?

20 A Yes, there are several. I'll go down
21 the list here. Exhibit 1, the AFC and revision,
22 sections 2.2, 2.3, 2.4 and 9.0. Also within the
23 same document, appendix I, including parts 1
24 through 8.

25 And then in exhibit 3, appendix A, some

1 minor revisions to the project description of the
2 Sunrise comments on the preliminary staff
3 assessment.

4 Also exhibit 5, responses to the CEC
5 data requests; those were responses numbers 28
6 through 35. Exhibit 6, responses to CURE data
7 requests, response 113.

8 Exhibit 7, Sunrise comments on the PSA,
9 page 76 through 100. And then finally, exhibit
10 21, the geotechnical report, revision 1.

11 Q Thank you. Would you care to summarize
12 your testimony here for the record?

13 A Yes. I'm the, as I mentioned
14 previously, I'm the Project Manager for the
15 engineering, procurement and construction effort
16 for the Sunrise Cogeneration portion of the
17 project, not the transmission and the substation,
18 but the cogeneration plant, itself.

19 And I either supervised or assisted in
20 the preparation of each of the exhibits that I
21 just mentioned. And design of the project
22 involved the following engineering disciplines:
23 foundations and civil engineering; structural
24 engineering; mechanical engineering; electrical
25 engineering; and control engineering.

1 For each of the engineering disciplines
2 applicable design codes and standards were
3 identified and specified considering the project's
4 scope and location.

5 The applicable design codes and
6 standards are being incorporated into all phases
7 of the project design.

8 And in my professional opinion, the
9 Sunrise Project will be designed and constructed
10 in full accordance with applicable LORS.

11 Having had the benefit of looking
12 through the staff's errata on facility design, I
13 am now in full agreement with the staff errata and
14 the proposed conditions of certification for
15 facility design.

16 Q Thank you.

17 PRESIDING MEMBER MOORE: Questions?

18 MS. HOLMES: We have no questions.

19 PRESIDING MEMBER MOORE: Any questions
20 from intervenors?

21 MS. POOLE: No questions.

22 MR. GRATTAN: I believe we're not quite
23 through yet.

24 PRESIDING MEMBER MOORE: Oh, I'm sorry,
25 I thought --

1 MR. GRATTAN: The pause was merely a
2 dramatic pause.

3 PRESIDING MEMBER MOORE: For applause.
4 It was for applause, well, let me retract every
5 question I asked of staff or intervenors, and
6 sorry.

7 MR. CLARK: All right, if I may. We
8 previously recommended in our comments on the PSA
9 that verifications concerning the time of
10 submittal of post-certification plans should
11 include some flexibility. This recommendation was
12 not consistently adopted throughout the various
13 sections of the final staff assessment.

14 Our recommended flexibility is required
15 to allow the Sunrise Project to proceed with site
16 construction work as soon as possible after the
17 CEC certification.

18 The flexibility that we recommended does
19 not in any way jeopardize the ability of the
20 compliance project manager to thoroughly review a
21 plan and to reject it or require modifications to
22 it.

23 BY MR. GRATTAN:

24 Q Would you care to address a couple
25 issues for us, please. The first one would be the

1 design of the ammonia storage tank and foundations
2 to the design standards of seismic zone 4.

3 And the next would be the start-ups of
4 the prime movers in this case, and what a
5 realistic amount of start-ups, worst case, in an
6 hour might be.

7 And I ask you that based upon your role
8 in equipment selection and in analysis of
9 equipment capabilities.

10 A Yes. First of all, the project
11 structures and foundations for this project must
12 be designed in accordance with seismic zone 4 due
13 to the location of the facility.

14 This requirement applies to the
15 anhydrous ammonia storage tank and its foundation.
16 The ammonia storage tank will be designed to meet
17 section 8 of the ASME Boiler and Pressure Vessel
18 Code. And in addition the anchorage of the
19 ammonia storage tank to its foundation will be
20 designed in accordance with the 1998 California
21 Building Code.

22 Both of these codes take into account
23 seismic forces appropriate for seismic zone 4.
24 Therefore, these seismic design considerations
25 will add to the integrity of the ammonia system

1 design, and somewhat reduce the likelihood of an
2 accidental release.

3 Then regarding the second topic that was
4 mentioned, in designing the Sunrise Project and
5 specifying and selecting the major equipment for
6 it, I've become familiar with the operating
7 characteristics of the GE Frame 7FA Combustion
8 Turbine Generator.

9 In my opinion, the CEC Staff's worst
10 case scenario that appears in the air quality
11 section of the PSA which assumes that three start-
12 ups and shutdowns may take place in one hour is
13 not realistically possible in the GE Frame 7FA
14 machine.

15 A normal unit start-up to baseload takes
16 approximately 27 minutes. This includes about 18
17 minutes of fired operation. In the worst case a
18 full load trip could occur immediately after
19 achieving full load, followed by a quick restart.

20 However, the trip from baseload and
21 subsequent preparation as we start the unit could
22 easily take at least five to ten minutes.
23 Therefore, a complete unit start-up and shutdown
24 cycle would take a minimum of about 33 to 38
25 minutes.

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1           Therefore our maximum of two unit start-
2 ups and -- start and stop cycles could take place
3 in an hour.

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4 In addition, the plant is designed so
5 that it's physically impossible to start both
6 combustion turbine units simultaneously. They
7 must be started in series.

8 That concludes my remarks.

9 PRESIDING MEMBER MOORE: Let me ask just
10 a couple of clarifying questions, then.

11 EXAMINATION

12 PRESIDING MEMBER MOORE: First, working
13 backwards, you're disagreeing with staff analysis
14 and you're saying that two cycles is more
15 appropriate than three. I assume that we'll have
16 documentation of that opinion along with the -- I
17 mean you haven't gone into the implications of
18 that, but clearly they range out into the air
19 quality arena, as well.

20 So I assume we'll be revisiting this
21 testimony during the air quality section?

22 MR. GRATTAN: Can you resubmit
23 documentation?

24 MR. CLARK: Yes, we can provide
25 documentation, including start-up curves from the

1 manufacturer.

2 PRESIDING MEMBER MOORE: Okay, well,
3 then for my own edification, tell me what the
4 implications of two cycles instead of three cycles
5 has on the ammonia retention.

6 MR. CLARK: Separate issues --

7 PRESIDING MEMBER MOORE: In other
8 words, --

9 MR. GRATTAN: Those are separate issues.

10 PRESIDING MEMBER MOORE: Okay, it wasn't
11 clear in my mind that they were. Then what do we
12 make of the implication of a reduction from three
13 cycles to two?

14 MR. CLARK: Well, it would effectively
15 decrease the amount of emissions that the staff
16 has assumed could be generated in the worst case
17 one-hour scenario.

18 PRESIDING MEMBER MOORE: And does it had
19 any implications for plant reliability?

20 MR. CLARK: No significant impacts that
21 I'm aware of.

22 PRESIDING MEMBER MOORE: Okay. And you
23 said that adhering to the codes as they're
24 written, and now I believe I'm quoting, somewhat
25 reduce, unquote, the seismic risk.

1 MR. CLARK: It would somewhat reduce the
2 risk of an accidental ammonia release, because the
3 foundations in the tank design take into account
4 seismic forces.

5 PRESIDING MEMBER MOORE: It's hard for
6 me to put that in context because in the staff
7 analysis there was an actual numeric computation,
8 a calculation of the probability of an event
9 happening.

10 MR. CLARK: Um-hum.

11 PRESIDING MEMBER MOORE: Can you
12 quantify the term somewhat reduce for me?

13 MR. CLARK: No, not at this time. I'm
14 not prepared to quantify it, that it would tend to
15 reduce the likelihood at least somewhat from what
16 staff assumed.

17 PRESIDING MEMBER MOORE: Well, since
18 it's going to be hard to compare apples and
19 oranges, I would appreciate it in the future if
20 you maybe get us a letter that puts it in some
21 sort of numerical context just so that we're
22 comparing the same units. Make it easier.

23 Either that, or I turn to staff and get
24 them to put theirs in a more pejorative form,
25 which probably Mr. Grattan would like to have me

1 do.

2 MR. GRATTAN: If I might interject here,
3 I believe that the purpose of the testimony was to
4 indicate the conservatism of the staff's analysis,
5 not necessarily to put a precise numerical factor
6 on the probability.

7 PRESIDING MEMBER MOORE: I understand,
8 but the implication of that, Mr. Grattan, is that
9 perhaps the staff erred too conservatively, and
10 then they didn't have to go that far. And if they
11 didn't, and it's an assertion that can be backed
12 up, then I'm sure both Commissioners would like to
13 hear it.

14 MR. GRATTAN: Very well. I think the
15 staff could probably respond to that --

16 PRESIDING MEMBER MOORE: They probably
17 will --

18 MR. GRATTAN: -- in its testimony.

19 PRESIDING MEMBER MOORE: -- and I'll
20 turn to them next. But I wanted to get my
21 clarifying questions out.

22 Commissioner Rohy?

23 VICE CHAIRMAN ROHY: I was just going to
24 follow up on Mr. Grattan's comments here on the
25 intent.

1 My understanding of that was that you're
2 not objecting to staff's analysis, but that in
3 fact you're going further than that, than what
4 they recommended, is that correct?

5 MR. GRATTAN: We're not going further
6 than that of what they recommended. We're
7 agreeing, we are qualifying, I think, the staff
8 analysis. We're not disagreeing with it. We're
9 saying it's -- staff has said its analysis is
10 conservative, we're saying its analysis is, in
11 fact, very conservative. We have a substitute
12 analysis of our own.

13 VICE CHAIRMAN ROHY: So you're not
14 objecting to staff analysis?

15 MR. GRATTAN: No.

16 VICE CHAIRMAN ROHY: Thank you.

17 PRESIDING MEMBER MOORE: All right, let
18 me ask staff questions.

19 MS. HOLMES: I have more in the nature
20 of procedural comments. I have a little bit of
21 concern about venturing into these areas. They
22 were not noticed for today, neither hazardous
23 materials management nor air quality.

24 I'm not prepared to cross-examine this
25 witness on those subjects.

1 PRESIDING MEMBER MOORE: Well, it's --

2 MS. HOLMES: I'm assuming he's going to
3 be available, if his testimony on those two areas
4 is to be accepted into the record, I'd like to
5 make sure that he's available for cross-
6 examination on the days that those topics are
7 noticed.

8 PRESIDING MEMBER MOORE: Good point. I
9 had assumed, given the area that my questions were
10 going into, that this was the precursor to, that
11 we were simply being given notice that this is an
12 area that would be further investigated in air
13 quality, for instance. And that we would see the
14 witness again.

15 Am I correct, Mr. Grattan?

16 MR. GRATTAN: It was not our intent to
17 bring the witness back from Kansas City for air
18 quality. It was our intent to provide something
19 in the record for staff and applicant and
20 intervenor to further discuss in air quality and
21 hazardous materials.

22 PRESIDING MEMBER MOORE: Well, I'm going
23 to have to turn to my counsel for an answer on
24 that, as to how to satisfy the concern that Ms.
25 Holmes raises, where testimony is coming in and

1 out of sequence, but clearly leads to something
2 that we would expect at a later date, how, if they
3 didn't bring the witness back, how would we get
4 that testimony in an acceptable fashion.

5 And I'll come back to --

6 HEARING OFFICER FAY: Well, I think that
7 as to the fundamental question of whether the
8 witness is accurate or not, staff may be at a
9 disadvantage having not been able to, you know,
10 review that start-up sequence in a certain amount
11 of time.

12 And if, in their discussions or
13 workshops or whatever, they become comfortable
14 with that, perhaps they wouldn't need the witness
15 or another witness as to the performance of those
16 turbines, when air quality comes up.

17 I could imagine that this could be --

18 PRESIDING MEMBER MOORE: Or hazardous
19 waste.

20 HEARING OFFICER FAY: I think that's
21 another question. Let me take air quality first.
22 so I think I would suggest that staff be directed
23 to attempt to resolve this through the district
24 and the applicant.

25 If it becomes a critical issue and they

1 need a witness to cross-examine, then contact the
2 Committee and we may have to order either this
3 witness' return or perhaps someone else who can
4 testify expertly on the performance of the
5 turbines.

6 Mr. Grattan.

7 MR. GRATTAN: We place this testimony
8 into the record because it was, in fact, part of
9 the facility design, specifically --

10 HEARING OFFICER FAY: The start-up
11 sequence?

12 MR. GRATTAN: -- the equipment,
13 capability and also the tank design standards.

14 PRESIDING MEMBER MOORE: Mr. Grattan, I
15 didn't say it wasn't part of facility design. All
16 I indicated, and I think staff responded to my
17 point, was that it certainly was the precursor to
18 a lot of discussion that we'll end up having in
19 other areas.

20 MR. GRATTAN: If necessary, the witness
21 can be available for this --

22 PRESIDING MEMBER MOORE: Okay, well, let
23 me turn -- we can clarify this. Let me turn back
24 to staff and just get Ms. Holmes' concerns out on
25 the table.

1 MS. HOLMES: I think you summarized them
2 quite well. I believe that some of these issues
3 were raised in a more cursory fashion in some
4 earlier workshops that we had, the staff's air
5 quality testimony, as you know, has not been filed
6 yet in final form.

7 I simply was not prepared to address
8 this issue at all today. I understand why it's
9 being called by the applicant as a facility design
10 issue, nonetheless, the fact of the matter is that
11 the implications are environmental implications in
12 the area of air quality, and I think that's the
13 appropriate place to hear testimony and to hear
14 cross-examination of witnesses about what the
15 effects are of the number of start-ups in various
16 different scenarios and assumptions.

17 PRESIDING MEMBER MOORE: Okay, point is
18 made. While the witness is still here, let me
19 just ask staff, and I'll come back to the table
20 here for comments or questions about the testimony
21 that you heard, just in terms of facility design.

22 MS. HOLMES: The only other issue I have
23 is with respect to the discussion that he provided
24 on seismic 4 requirements, and I believe that
25 that's being addressed in staff's hazardous

1 materials management testimony on Thursday.

2 I don't know if there's an issue with
3 respect to that or not, whether staff would agree
4 or not. But, again, because I've not seen this
5 testimony before or heard this testimony before,
6 I'm at a little bit of a disadvantage.

7 HEARING OFFICER FAY: My understanding
8 is that it almost doesn't matter if staff agrees
9 or disagrees, is that correct, Mr. Grattan? In
10 other words, if staff says we don't agree that
11 adds a conservatism, we don't have a big problem.
12 We're spending a lot of time --

13 MR. GRATTAN: I don't think we have a
14 big problem.

15 HEARING OFFICER FAY: Fine. I think it
16 was just an emphasis they were adding, and the
17 Committee can evaluate whether it's worth
18 considering or not.

19 MS. HOLMES: I believe other parties may
20 have issues with it, also.

21 PRESIDING MEMBER MOORE: Okay.

22 MS. POOLE: Yes. We are concerned about
23 this issue. And I'm unclear as to whether this
24 witness will be available on Thursday during
25 hazardous materials.

1 MR. GRATTAN: That is not our intent --

2 PRESIDING MEMBER MOORE: Do you have
3 another witness for hazardous materials?

4 MR. GRATTAN: Yes, we do.

5 MS. POOLE: Well, will that witness be
6 able to address this particular issue?

7 MR. GRATTAN: I believe so.

8 PRESIDING MEMBER MOORE: Well, if he
9 doesn't, Ms. Poole, you raise an objection and
10 we'll deal with it as it comes up.

11 HEARING OFFICER FAY: My perception is
12 that this is not fundamental to the question of
13 hazardous material handling. And if it's critical
14 to such a slim margin that this would be
15 important, then in that case I suppose we would
16 need to get into this. But this is a subtle --

17 PRESIDING MEMBER MOORE: And we may --
18 well, and if the other witness isn't adequate,
19 we'll revisit it. I mean I don't know that I can
20 go any farther than that. Certainly your concerns
21 are noted. I imagine they've been heard well
22 across the table. And so we'll revisit that when
23 hazardous waste comes up.

24 MS. POOLE: But, -- excuse me, go ahead.

25 PRESIDING MEMBER MOORE: No, go --

1 MS. POOLE: One other concern that I
2 have which I'm hesitant to bring up because I
3 would like to verify this, but --

4 PRESIDING MEMBER MOORE: But you're
5 going to, anyway.

6 MS. POOLE: -- but I just want to make
7 sure that I put the Committee on notice that I
8 believe that one of CURE's data requests that the
9 applicant didn't answer concerned the start-up
10 curves, which they're talking about submitting
11 now. Which they, at the time, said it was not
12 relevant.

13 So, we will have a concern about that
14 information coming in at this late date when it
15 was not provided to us earlier.

16 PRESIDING MEMBER MOORE: What's the
17 nature of the curves that you're intending to
18 submit?

19 MR. CLARK: The curve that I have
20 available from the manufacturer is simply a curve
21 that shows plotted versus time, the combustion
22 turbine load and in terms of percent of its
23 output, its speed, when the fuel firing begins to
24 take place and things of that nature.

25 It has no specific information on it

1 regarding emission rates at a point in time.

2 PRESIDING MEMBER MOORE: So this is
3 published data on the engine, itself. And so
4 anyone who bought a frame 7 engine like this would
5 get the same data?

6 MR. CLARK: Yes, it's standard GE curves
7 for this particular model of combustion turbine
8 generator.

9 HEARING OFFICER FAY: Have you submitted
10 this data to the air district for them to use in
11 calculating, the FDOC?

12 MR. CLARK: Not to my knowledge.

13 MR. GRATTAN: No.

14 PRESIDING MEMBER MOORE: Did you submit
15 any other curves? How are they doing their
16 calculations?

17 MR. CLARK: It's my understanding that
18 what we obtained from the manufacturer in the way
19 of start-up and shutdown emissions is the same
20 information that was included in Radian's air
21 modeling analysis, and provided both to the CEC
22 and to the air district.

23 And this information includes total
24 emissions during a start-up event. In other
25 words, pounds of a particular pollutant.

1 PRESIDING MEMBER MOORE: And were those
2 available to CURE? Did you get those, as well?
3 So if they're submitted to us, right, you get them
4 because they're docketed.

5 MS. POOLE: I'm not entirely sure what
6 information Mr. Clark is specifically referring
7 to. But if the information was docketed, it
8 should have been available --

9 PRESIDING MEMBER MOORE: So anything
10 that went to the air district in support of the
11 DOC, any intervenors would get automatically
12 because it was docketed.

13 I guess I'm just trying to clear that in
14 my mind.

15 MR. GRATTAN: That's correct.

16 MS. POOLE: If the information was
17 docketed --

18 PRESIDING MEMBER MOORE: Kate, I'm not
19 expecting you to know every technical piece of
20 information that you got, but I just want to make
21 sure that it transferred through you to people
22 that you would use for your own consultant.

23 MS. POOLE: If the information was
24 docketed then it should have been available to us.

25 PRESIDING MEMBER MOORE: Okay. Let me

1 bring this back to this end of the table and ask,
2 any other questions from staff or the intervenors?

3 MS. HOLMES: No other questions.

4 PRESIDING MEMBER MOORE: On facility
5 design?

6 VICE CHAIRMAN ROHY: May I ask a
7 question?

8 PRESIDING MEMBER MOORE: Commissioner
9 Rohy.

10 VICE CHAIRMAN ROHY: Mr. Clark, I recall
11 you saying that it was impossible because of
12 facility design to start the two engines
13 simultaneously or contemporaneously. Could you
14 tell me the basis of that position? What makes it
15 impossible?

16 MR. CLARK: Yes. These particular gas
17 turbines are started by a static start system, and
18 what that involves is using the generator to start
19 the units, rather than a separate motor.

20 And essentially the generators are back-
21 fed from the electric transmission grid, and
22 they're back-fed through a static start system.
23 And the static start system is common to the two
24 units. And is only sized to start one unit at a
25 time. It can switch from one to the other, but it

1 doesn't have the capacity or the capability to
2 start both at the same time. It's one or the
3 other.

4 VICE CHAIRMAN ROHY: So the generator is
5 used as a motor to start the turbine, is that
6 correct, using grid power to power the motor
7 generator?

8 MR. CLARK: Yes, that's exactly correct.

9 VICE CHAIRMAN ROHY: At what point in
10 the start cycle can the static starting system
11 switch from one Frame 7 to the second Frame 7?

12 MR. CLARK: Would you allow me to
13 consult the curve from GE?

14 VICE CHAIRMAN ROHY: Certainly.

15 MR. CLARK: From my interpretation of
16 the GE curve, and this is without the benefit of
17 confirming this with GE, it would be approximately
18 ten minutes into the start-up event.

19 VICE CHAIRMAN ROHY: Is that the point
20 at which combustion is initiated in the turbine?

21 MR. CLARK: Yes, the combustion is
22 initiated approximately at a minute 11.

23 VICE CHAIRMAN ROHY: So combustion has
24 occurred then from a minute 11 to approximately
25 ten minutes. At that point you say it could be

1 switched? Did I understand that correctly?

2 MR. CLARK: Well, I believe the static
3 start system is employed between minutes zero and
4 11. And then beginning at a minute 11, fuel flow
5 is initiated and the static start system drops
6 out.

7 PRESIDING MEMBER MOORE: Dave, you were
8 reading a minute 11 seconds, --

9 VICE CHAIRMAN ROHY: That is correct.

10 PRESIDING MEMBER MOORE: -- and he's
11 saying minute hyphen 11.

12 VICE CHAIRMAN ROHY: Minute 11, ah, I'm
13 sorry.

14 PRESIDING MEMBER MOORE: T-11. Time T-0
15 to time T-11.

16 VICE CHAIRMAN ROHY: Now I understand,
17 yes, you're correct.

18 MR. CLARK: Yeah, the static starting
19 system is working between minutes zero and 11.

20 PRESIDING MEMBER MOORE: You're clear.

21 VICE CHAIRMAN ROHY: Thank you, that's
22 what I wanted to know, thank you.

23 PRESIDING MEMBER MOORE: All right,
24 other questions?

25 Okay, as I said before, we'll accept

1 that into the record.

2 HEARING OFFICER FAY: Moved with the
3 exhibits identified.

4 MR. GRATTAN: Yes, and I'll move the
5 exhibits, as well.

6 HEARING OFFICER FAY: Is there
7 objection?

8 MS. POOLE: What are we moving into the
9 record, the start-up curves?

10 MR. GRATTAN: The sponsored exhibits.

11 PRESIDING MEMBER MOORE: And let's move
12 the start-up curve, as well. And even though it
13 is something that they say they've submitted
14 before, just to make sure -- no, I'm sorry, --

15 MS. HOLMES: Excuse me, I don't believe
16 I heard --

17 PRESIDING MEMBER MOORE: -- this is new
18 information.

19 MS. HOLMES: -- that, Commissioner
20 Moore.

21 PRESIDING MEMBER MOORE: Oh, I'm sorry,
22 I thought that -- but I understood they had
23 already submitted that to the docket, that's why I
24 went through the question line that I did with Ms.
25 Poole.

1 MR. CLARK: We have submitted start-up
2 emissions data before, but not this particular
3 curve.

4 PRESIDING MEMBER MOORE: Okay.

5 MR. GRATTAN: This is a time curve, not
6 an emissions curve.

7 MR. CLARK: That's correct. This curve
8 has no information on emissions.

9 PRESIDING MEMBER MOORE: Well, since
10 we've now referred to it in two separate
11 questions, one from me and one from Commissioner
12 Rohy, why wouldn't I admit this into --

13 MR. GRATTAN: It's acceptable to us.

14 MS. HOLMES: I have no objection as long
15 as a witness who is capable of sponsoring this
16 exhibit is made available for cross-examination
17 when we discuss air quality issues. If such a
18 competent witness is not going to be available,
19 then I do have an objection.

20 MS. POOLE: And, Commissioner, again I
21 have a concern that if we did in fact ask for GE
22 start-up curves in the data request that the
23 applicant refused to respond to, which I believe
24 we did, then I do object to it now being admitted
25 as relevant, when the applicant previously told us

1 it was not relevant.

2 MR. GRATAN: My recollection of what
3 was asked by CURE was detailed emission numbers
4 during start-up, as opposed to a general start-up
5 curve.

6 VICE CHAIRMAN ROHY: Let me see if I can
7 get into the fray here. What you have in front of
8 you, I'm assuming is an event curve, then, that
9 certain things happen at certain times, is that
10 correct?

11 MR. CLARK: That is correct.

12 VICE CHAIRMAN ROHY: Is there any other
13 data on that curve? Because I haven't seen it,
14 either.

15 MR. CLARK: The curve shows exhaust
16 flow, exhaust temperature, power output, fuel
17 flow, unit speed in terms of rpm, and the inlet
18 guide vein angle all plotted versus time, from
19 time zero to achievement of baseload throughout a
20 minimal start-up cycle. There's no specific
21 information on emissions rates.

22 PRESIDING MEMBER MOORE: Just following
23 on to Dr. Rohy's question, in the original
24 submittal the documents to us, the big binders,
25 wasn't there a discussion of the engines, and

1 didn't I see such a curve before? No?

2 HEARING OFFICER FAY: Different case.

3 PRESIDING MEMBER MOORE: Different case.

4 Wow, there's the trouble. Okay, well, --

5 HEARING OFFICER FAY: Excuse me, in what
6 form is this? Does this appear in the record
7 already or are you just submitting it now?

8 PRESIDING MEMBER MOORE: No, it does
9 not. That's the whole trouble.

10 HEARING OFFICER FAY: I'll wait until
11 Mr. Grattan's through.

12 MR. GRATTAN: I'm sorry.

13 HEARING OFFICER FAY: You want to submit
14 this as a separate exhibit, is that correct, the
15 start-up curve?

16 MR. GRATTAN: I believe that is the --
17 yes, we'll submit it as a separate exhibit.

18 PRESIDING MEMBER MOORE: Well, all
19 right, let me go a little bit further down the
20 line, then. Ms. Poole raised an issue of whether
21 or not the start-up curve, which it does seem to
22 me is relevant in the air quality arena, --

23 MR. CLARK: Correct.

24 PRESIDING MEMBER MOORE: -- it's
25 convenient now. I mean it's convenient to sort of

1 explain to us -- actually Dr. Rohy understands
2 these engines a lot better than I do -- but it's
3 convenient for us to kind of get a snapshot of how
4 the engine works.

5 On the other hand, in the air quality
6 arena, this is probably information that is either
7 vital to, or close to it, in the air quality
8 analysis.

9 So, the question of whether or not there
10 will be a witness who could sponsor such a curve
11 and discuss it during the air quality hearings is
12 particularly relevant. And I suppose if the
13 answer is yes, then we ought not to submit it
14 today, ask for it to come in and be defended at
15 that time when that witness can be cross-examined.

16 MR. GRATTAN: May I go off the record?

17 PRESIDING MEMBER MOORE: Sure. Take a
18 couple minutes.

19 MS. POOLE: My concern -- are we off the
20 record?

21 PRESIDING MEMBER MOORE: Let's go off
22 the record.

23 (Off the record.)

24 PRESIDING MEMBER MOORE: Mr. Grattan,
25 why don't you just say that again for the record.

1 MR. GRATTAN: Sure. What I suggest is
2 let us submit this start-up curve as an
3 applicant's exhibit at this point. And we will
4 have a witness present during the air quality
5 testimony to be prepared to expound on and be
6 cross-examined on this exhibit.

7 MS. POOLE: I have an alternative
8 suggestion, which is that since this is raising a
9 lot of issues related to air quality we wait until
10 that time to let the parties digest this
11 information and deal with this exhibit at that
12 time.

13 PRESIDING MEMBER MOORE: Well, how are
14 you going to digest it if we don't get it
15 submitted?

16 MS. POOLE: Well, because I would like
17 to check on our data request and see whether we
18 requested this information. And if so, what the
19 applicant's response was. And then be able --

20 PRESIDING MEMBER MOORE: And why would
21 that change the outcome? In other words, if I
22 have this submitted right now as an exhibit, it's
23 then made available to you.

24 MS. POOLE: It changes the outcome
25 because if we requested this information several

1 months ago, and were told by the applicant that it
2 was not relevant, then I don't think that the
3 applicant should be able to pick and choose,
4 select pieces of information to submit now because
5 it suits their needs, when the other parties have
6 been deprived of that information in performing
7 their analyses.

8 MR. GRATTAN: I would like to respond to
9 that if -- number one, we do not believe that CURE
10 requested this data. Number two, relevancy
11 changes. This became relevant, this document
12 became relevant when Mr. Clark had to check that
13 document to support his answer to a question posed
14 by the Committee.

15 We're offering it now. All parties will
16 have the opportunity to review it for at least
17 three weeks. Where's the harm?

18 PRESIDING MEMBER MOORE: Yeah, well, Mr.
19 Fay has suggested that I have an interim way out,
20 and I'm going to accept it. And that is to accept
21 this for identification. We won't accept it for
22 evidence. Mark it for identification. Everyone
23 will have access to it. And we'll expect to
24 revisit this or something like it in full measure
25 when everyone's had a chance to digest it at the

1 air quality portion of these hearings.

2 But I might suggest that whatever
3 submissions are made at that time should include
4 an analysis of what this or similar curves are
5 about well in advance so that CURE or staff have
6 ample opportunity to see what it is.

7 Now, the question of whether or not this
8 is a violation of what was asked for, I'll take up
9 with my colleague after we close this hearing,
10 after we have more evidence to go through. And I
11 can't even tell you what action we would take.
12 It's obviously important enough for us to spend
13 some time on it.

14 And the last word on this, I think, is
15 that keep in mind that even when there's been an
16 error, I will err on our behalf, so that we have
17 adequate information to make a decision. So we'll
18 work out the punitive relationships later. But I
19 have to have data, I have to have relevant
20 information that flows past this desk and Dr.
21 Rohy's desk in order to make a good decision.

22 But, Ms. Poole, your concerns are noted,
23 and just not quite sure what avenue's available to
24 me to investigate it, but I will.

25 HEARING OFFICER FAY: Mr. Grattan, could

1 we get you to identify that? We'll mark that as
2 exhibit 27, if you could.

3 (The above-referenced document was
4 marked Applicant exhibit 27 for
5 identification.)

6 PRESIDING MEMBER MOORE: Just the title
7 of it.

8 MR. GRATTAN: Is it exhibit 27?

9 HEARING OFFICER FAY: Yes.

10 MR. GRATTAN: 26? Exhibit 26 which is
11 the --

12 HEARING OFFICER FAY: No, exhibit 27.
13 Exhibit 26 is a staff declaration.

14 MR. GRATTAN: Oh, okay.

15 PRESIDING MEMBER MOORE: And what are we
16 going to title it?

17 MR. GRATTAN: It's the General Electric
18 Model 7241FA Gas Turbine Typical Start-Up.

19 PRESIDING MEMBER MOORE: Okay, thank
20 you. And we'll look forward to discussing this
21 again in the air quality section.

22 I believe that takes us back to geology
23 and paleontology, where we were --

24 HEARING OFFICER FAY: And I'd just like
25 to clarify one thing. Now, with the exception of

1 exhibit 27, is there any objection to admitting
2 the exhibits identified by Mr. Clark in his
3 testimony?

4 MS. HOLMES: No objections from staff.

5 MS. POOLE: No objection.

6 HEARING OFFICER FAY: Okay.

7 (The above-referenced documents,
8 previously marked Applicant exhibit
9 1, sections, were received in
10 evidence.)

11 HEARING OFFICER FAY: Just wanted to
12 close that.

13 PRESIDING MEMBER MOORE: Good point.

14 All right, to geology and paleontology. Mr.
15 Grattan.

16 MR. GRATTAN: We have proposed to
17 testify by declaration on these subject matters.
18 I think staff has some issues with our submitted
19 testimony, and perhaps it's appropriate for staff
20 to go first on this.

21 PRESIDING MEMBER MOORE: So, right now
22 you stand by your declaration, and you --

23 MR. GRATTAN: We stand by our
24 declaration, but we are prepared to revise that
25 based upon staff testimony.

1 PRESIDING MEMBER MOORE: Okay, with
2 that, let me turn to staff. Ms. Holmes.

3 MS. HOLMES: Thank you. Staff's witness
4 for geology and paleontological resources is
5 Robert Anderson, and he does need to be sworn.
6 Whereupon,

7 ROBERT ANDERSON
8 was called as a witness herein and after first
9 being duly sworn, was examined and testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MS. HOLMES:

13 Q Good afternoon, Mr. Anderson. Did you
14 prepare the section of the FSA entitled geology?
15 The FSA has been identified as exhibit 23.

16 A Yes, I did.

17 Q And did you include in exhibit 23 a
18 statement of your qualifications?

19 A Yes, I did.

20 Q And does the testimony that's entitled
21 geology also discuss paleontological resources?

22 A Yes, it does.

23 Q Do you have any changes or corrections
24 to your testimony at this time?

25 A Yes, I do, I have two I'd like to

1 propose.

2 Q Could you please summarize them for us?

3 A Yes. The first one is on page 287.

4 I'll take geology before paleontology. And this
5 happens to do with proposed condition of
6 certification number GEO3.

7 And what I'd like to propose is that the
8 proposed condition of certification GEO 3, as it
9 currently stands, be revised so that the condition
10 of certification is dropped. And on page 288 at
11 the top, the protocol section be substituted in
12 its place for GEO3. So that the term protocol is
13 dropped and so the new condition of certification
14 starts with, the project owner shall submit a
15 linear facility development plan, and then
16 terminates with the phrase "existing oil wells is
17 to be maintained."

18 Q Does the verification change, Mr.
19 Anderson?

20 A No, ma'am.

21 Q Do you have any additional changes to
22 your testimony?

23 A One, ma'am. Okay, this is paleontology.
24 And this is based upon re-review --

25 PRESIDING MEMBER MOORE: What page?

1 THE WITNESS: 284. It's the top
2 paragraph, second sentence. It says none of these
3 formations are likely to be encountered during
4 construction of the proposed project and linear
5 facilities.

6 I'd like to strike that sentence
7 entirely.

8 BY MS. HOLMES:

9 Q Does striking that sentence affect any
10 of your conclusions?

11 A Basically what it does is clarifies it
12 so that I am saying that no paleontological
13 resources were identified at the site, power plant
14 footprint, or along the transmission line
15 corridor. There's some areas along the sites that
16 do have known paleontological resources, and
17 that's why we have conditions of certification for
18 paleontology at all.

19 Q And with those conditions of
20 certification are you confident that there will be
21 no significant adverse impacts to paleontological
22 resources?

23 A Yes.

24 Q And finally, I don't think that on your
25 change to GEO3 you explained the rationale for the

1 change.

2 A Okay, --

3 Q Could you do that at this time, please?

4 A -- sure. What we're looking at is the
5 end goal of GEO3 is to insure that the existing
6 oil wells at the oil well field right now are able
7 still to be serviced as they need to be.

8 And that really comes under the
9 jurisdiction of the division of oil and gas and
10 geothermal resources. It's part of the Department
11 of Conservation. And they work on a case-by-case
12 element with different owners at the wells, and
13 folks that are working in the well fields.

14 So really where that lies, the crux and
15 the heart of this particular condition of
16 certification is complying with the requests and
17 requirements of DOGGR.

18 And that's what we have proposed here,
19 and that's where, in fact, lies the -- needs to be
20 done. With that, I think we're fine.

21 Q Are you testifying that the specific
22 numbers that were in the originally proposed GEO3
23 can, in fact, vary from case to case?

24 A Yes, ma'am.

25 Q Thank you.

1 A They can vary as needed for a particular
2 site.

3 Q And with those changes are the facts
4 contained in your testimony true and correct?

5 A With those changes, yes, ma'am.

6 Q And do the opinions contained in your
7 testimony represent your best professional
8 judgment?

9 A Yes, ma'am.

10 MS. HOLMES: At this point I'd like to
11 move the geology portion of exhibit 23, with the
12 corrections that were noted by the witness, into
13 the record. And make Mr. Anderson available for
14 cross-examination.

15 PRESIDING MEMBER MOORE: Any objections?

16 MR. GRATTAN: No objections.

17 HEARING OFFICER FAY: Just one
18 clarification, Mr. Anderson.

19 EXAMINATION

20 HEARING OFFICER FAY: I just want to
21 make sure I understand correctly. So we should
22 eliminate the paragraph headed GEO3, and replace
23 the term protocol on the next page with the title
24 GEO 3, is that correct?

25 THE WITNESS: Yes, sir, that's the

1 actual condition of certification now. It's a
2 replacement.

3 HEARING OFFICER FAY: And I heard no
4 objection, so that will be entered in the record
5 at this point.

6 (The above-referenced documents,
7 previously marked Applicant exhibit
8 23, section, were received in
9 evidence.)

10 PRESIDING MEMBER MOORE: Now, what we
11 did have is a potential of some objection about
12 the testimony, so where's the disagreement on
13 this?

14 MR. GRATAN: With that change there's
15 no disagreement.

16 PRESIDING MEMBER MOORE: Intervenors?

17 MS. POOLE: No objection.

18 PRESIDING MEMBER MOORE: Dr. Rohy. Mr.
19 Fay.

20 HEARING OFFICER FAY: I do have a few
21 questions if you're moving to that.

22 Mr. Anderson, you note, I believe it's
23 on page 283, you're discussing the collapsing
24 soils. I'd note there were no soil borings along
25 transmission line route B. In your mind does that

1 constitute missing information that is needed, or
2 is that not particularly important?

3 THE WITNESS: The area is known to
4 have -- I'm leading to my answer -- the area is
5 known to have a potential for collapsing soils, as
6 a region. Okay, first of all.

7 There were some soils prone to
8 hydrocompaction identified by the applicant's
9 geotechnical engineer. Those particular soils to
10 date have been found to have not a very high
11 potential, but nevertheless it's there.

12 They do have a process which they've
13 identified in their Geotech report on how to
14 assess the soils and how to deal with those soils.

15 The actual transmission line corridor,
16 unto itself, are for light loads, and nothing
17 compared to the power plant footprint, power
18 train, or other heavy loaded foundation elements.

19 And with that, I don't see a need for
20 them to go any further with that, except as they
21 find conditions in the field they need to make
22 field adjustments, their own judgment.

23 HEARING OFFICER FAY: Thank you.

24 PRESIDING MEMBER MOORE: Other
25 questions?

1 HEARING OFFICER FAY: That's it.

2 PRESIDING MEMBER MOORE: Thank you very
3 much. Mr. Grattan.

4 MR. GRATTAN: One further question.

5 PRESIDING MEMBER MOORE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. GRATTAN:

8 Q With the changes to the paleontological
9 analysis, which basically as I understand it, you
10 have agreed with applicant's consultant, that
11 there is a potential at least for encountering
12 paleontological resources.

13 With that being your testimony, are you
14 still of the belief that paleo conditions 1
15 through 7 would, if imposed on the applicant,
16 would result in avoidance or mitigation of any
17 potential for significant impact --

18 A Yes.

19 Q -- in the paleontological area?

20 A Yes.

21 MR. GRATTAN: Thank you.

22 PRESIDING MEMBER MOORE: Thank you very
23 much. We'll move on to cultural resources.

24 HEARING OFFICER FAY: And, Mr. Grattan,
25 I'd just like to identify, if we can, if you're

1 submitting your testimony in affidavit, I
2 understand, on geology, is that correct?

3 MR. GRATTAN: Pardon?

4 HEARING OFFICER FAY: Are you submitting
5 your testimony on geology --

6 MR. GRATTAN: Yes.

7 HEARING OFFICER FAY: -- on affidavit?

8 MR. GRATTAN: On geology and
9 paleontology.

10 HEARING OFFICER FAY: And could you
11 just, for our record-keeping, identify the
12 exhibits, please, --

13 MR. GRATTAN: Yes.

14 HEARING OFFICER FAY: -- that were
15 relied upon for that.

16 MR. GRATTAN: Yes, exhibit 7 is the
17 paleontological exhibit, and for geology it's
18 section 8.6 in appendix H of exhibit 1 -- 8.16,
19 excuse me, it's the transmission supplement, 2, of
20 exhibit 2, it's section 3.16 thereof; and appendix
21 SE, which is confidential.

22 Also exhibit 5, which is the response to
23 CEC's questions on a staff workshop held June
24 14th. And I believe I've mentioned our exhibit 7,
25 which are Sunrise comments on the PSA.

1 And AFC and revisions, that's exhibit 1,
2 section 8.15; exhibit 2, the transmission
3 supplement, sections 3.15, and once again exhibit
4 7, comments on the PSA, page 79.

5 HEARING OFFICER FAY: Is there objection
6 to receiving the testimony and those portions of
7 those exhibits just identified under declaration?

8 MS. HOLMES: No objection from staff.

9 MS. POOLE: No objection.

10 HEARING OFFICER FAY: Okay, thank you.

11 (The above-referenced documents,
12 previously marked Applicant exhibit
13 7; 1, section 8.15 and 8.16; 2,
14 section 3.16, appendix SE; 5, were
15 received in evidence.)

16 HEARING OFFICER FAY: And I assume, Mr.
17 Grattan, that your remarks, agreeing with Mr.
18 Anderson's corrections, supersede the criticisms
19 in the testimony?

20 MR. GRATTAN: That is correct.

21 HEARING OFFICER FAY: All right, now
22 moving to cultural resources.

23 Normally we'd go first with the
24 applicant --

25 MR. GRATTAN: Can we take a five-minute

1 break before we --

2 HEARING OFFICER FAY: Certainly.

3 MR. GRATTAN: -- discuss cultural?

4 PRESIDING MEMBER MOORE: Sure.

5 HEARING OFFICER FAY: Certainly.

6 (Brief recess.)

7 PRESIDING MEMBER MOORE: We'll go on the
8 record. And, Mr. Grattan, you asked for a break
9 prior to presenting your comments on cultural. As
10 Mr. Fay has said in the past, we typically turn to
11 the applicant first, so I'll ask for your
12 comments.

13 MR. GRATTAN: Yes, we're ready to go.
14 I'd like to present Mr. Thomas Jackson.

15 HEARING OFFICER FAY: Please swear the
16 witness.
17 Whereupon,

18 THOMAS JACKSON
19 was called as a witness herein and after first
20 being duly sworn, was examined and testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. GRATTAN:

24 Q Can you please state your name, address
25 and current employment.

1 A I'm Tom Jackson. I'm from LaSelva
2 Beach, California. I'm a senior archeologist with
3 Pacific Legacy, Incorporated.

4 Q And have you prepared and previously
5 submitted written testimony in this proceeding?

6 A Yes, I've prepared the cultural
7 resources testimony as part of the applicant's
8 testimony packet.

9 Q And are you sponsoring any exhibits at
10 this hearing?

11 A Yes, I am sponsoring exhibit 1 of the
12 AFC and revisions, section 8.3, and appendix D;
13 exhibit 2, transmission supplement to section 3.3
14 and appendix SD; exhibit 5, responses to CEC data
15 request, responses 19 to 27 and 88 to 91; and
16 exhibit 7, Sunrise's comments on the PSA, pages 56
17 to 64.

18 Q And now could you please summarize your
19 testimony?

20 A Yes. Cultural resources include
21 archeological and historical sites, objects and
22 districts, cultural landscapes and sites of
23 concern to local Native American and other ethnic
24 groups.

25 I complete a cultural resources

1 inventory for the project site, and the preferred
2 transmission line corridor, route B and
3 alternatives, approximately 25 miles long.

4 The study included a record search
5 involving all previously recorded cultural
6 resources within one mile of the project site, and
7 transmission corridor, consultation with Native
8 American Heritage Commission, and research for
9 historic information on oil well explorations in
10 the area.

11 The field work was accomplished by a
12 team of qualified technicians, walking systematic
13 transects through the project site, extending 500
14 to 1000 feet beyond the facility boundaries, and
15 along the transmission line routes, and 500 feet
16 to either side of the routes.

17 The survey and research indicates no
18 prehistoric or historic archeological resources or
19 cultural resources of concern to Native Americans
20 known in the plant site.

21 There are 11 known archeological sites
22 that could be affected by project construction on
23 transmission line corridor route B unless they are
24 avoided.

25 There is also potential to encounter

1 buried prehistoric archeological resources along
2 the transmission line corridor, especially between
3 milepost 5.4 to 5.7, and between milepost 19 to
4 25. Impacts to cultural resources could occur if
5 not avoided during construction.

6 The mitigation measures set out in the
7 AFC propose project design avoidance,
8 preconstruction structural location avoidance
9 measures, construction monitoring, coordination
10 with Native Americans, significance evaluation,
11 mitigation of unavoidable impacts, recognition and
12 avoidance, training procedures for dealing with
13 unanticipated discoveries of cultural resources,
14 and a variety of other measures to avoid or
15 substantially lessen impacts.

16 CEC Staff has adopted and refined these
17 recommendations and incorporated them as 17
18 conditions of certification. I agree with these
19 conditions of certification. But I do recommend
20 more flexibility in the timing of approval for
21 preconstruction plans.

22 PRESIDING MEMBER MOORE: What does that
23 last sentence mean? How do you gain that kind of
24 flexibility?

25 THE WITNESS: The condition, as written,

1 stipulates a specific date or specific timeframe,
2 90 days in advance, for example. We're suggesting
3 that if there's an opportunity, for example, to
4 provide information sooner, or modify information
5 based on changes, that there be some language
6 included to accommodate that.

7 PRESIDING MEMBER MOORE: So you're not
8 saying beyond 90 days, you're saying up to, you
9 don't want to be limited to having them submit it
10 on the 90th day? You're not asking for days
11 beyond 90 days, you're asking for flexibility
12 within that 90 days?

13 THE WITNESS: Flexibility, yes.

14 BY MR. GRATTAN:

15 Q If I might, as a point of clarification,
16 the applicant has consistently requested the
17 language "x" number of days, or sooner time if
18 mutually agreed to by the CPM and the applicant.

19 PRESIDING MEMBER MOORE: Again, I'm not
20 trying to cut your witness off.

21 MR. GRATTAN: No, I --

22 PRESIDING MEMBER MOORE: Does that
23 conclude your testimony?

24 THE WITNESS: Yes.

25 HEARING OFFICER FAY: Mr. Grattan.

1 MR. GRATTAN: If I might, I would like a
2 little more clarification, if I can walk you
3 through this, Mr. Jackson, and believe me, we
4 intend to introduce no start-up curves.

5 (Laughter.)

6 BY MR. GRATTAN:

7 Q Your testimony covered the area of the
8 project site including the transmission line, is
9 that correct?

10 A That's correct.

11 Q Did your testimony address the area of
12 the indirect impacts, that is under the blueprint,
13 the three-quarter mile radius where the 700 new
14 wells would be served?

15 A Only insofar as there might be an
16 overlap in that geographical area between the
17 indirect area and the direct.

18 Q And is it your understanding of the
19 staff's conditions, the actual conditions of
20 certification, that there were not recommendations
21 for mitigation in this particular area?

22 A That's my understanding.

23 Q If, based on your experience, and
24 perhaps you could tell us a little bit about your
25 experience in this geographic area in the Kern

1 County oil field area specifically, if you could
2 briefly establish that for us?

3 A Well, basically for the past three years
4 I've worked very intensively in the oil fields in
5 this part of Kern County, most particularly in Elk
6 Hills, and then coming into this area, the Midway
7 Sunset and the other related fields.

8 Q So in the course of your duties with
9 these two projects you have reviewed the
10 literature and you've also, at least for this
11 project, surveyed the land on the transect?

12 A For this project and other projects,
13 yes.

14 Q And based on this experience could you
15 suppose for us, could you opine for us, as to the
16 type of resources that might be present, or you
17 would expect to be present in this three-quarter
18 mile radius around the project site?

19 A There are basically two types of
20 archeological resources that we would expect. One
21 is a type of resource that's related to the
22 historic era, oil exploration and development.
23 The other type are prehistoric archeological
24 resources.

25 The former, the historic era, oil

1 related industrial resources are common in the
2 area in the sense that there is a lot of historic
3 debris scattered across the landscape. The vast
4 majority of it is typically found to lack
5 integrity and to not be of archeological
6 significance.

7 Based on the literature review and
8 previous archeological survey in the area of
9 indirect impacts, and in the areas of direct
10 impacts, also extrapolating from areas throughout
11 the region, this would be an area in which we
12 would expect to find relatively few, if any,
13 prehistoric archeological resources.

14 Q In your opinion would the potential for
15 impact to these -- I don't know how to describe a
16 resource that may not be there -- impact to the
17 area with regard to paleontological resources --
18 excuse me, to cultural resources, would the
19 literature survey be a sufficient mitigation under
20 CEQA?

21 A Well, the literature survey, itself, is
22 going to allow you to anticipate the resources.
23 And, again, we've done extensive investigation of
24 the distribution of prehistoric resources.

25 And my feeling is that there would be

1 very few prehistoric archeological sites in this
2 area.

3 Q But is mitigation required?

4 A If there were to be impacts, yes.

5 Q And if you were to design a mitigation
6 plan for this area of impact where you've
7 categorized, as I understand it, historic
8 resources associated with oil field development
9 which are not significant because of number,
10 because of relative age and because of lack of
11 integrity, and for cultural resources which may be
12 present, possibly present in this area, could you
13 maybe outline what you would believe, in your
14 professional opinion, to be an adequate program of
15 mitigation under CEQA for the potential of
16 disturbing these resources?

17 A Well, such a plan could include a number
18 of things, but among them would have to be a
19 provision that upon discovery of a significant
20 prehistoric cultural resource or a significant
21 cultural resource, that there would be adequate
22 treatment of that impact. That is, the treatment
23 of that impact to reduce it to less than
24 significant.

25 Also included in that program could be,

1 for example, education of people involved in the
2 development, such that if resources were
3 encountered they would know how to recognize them,
4 there would be response protocols that would then
5 allow for the evaluation and proper treatment of
6 any resources that are encountered.

7 Q Would a program -- keeping in mind that
8 the developer of this cogeneration project is not
9 the thermal host, would an agreement between the
10 thermal host and the developer of this project,
11 where engendering a commitment on the part of the
12 thermal host to avoid, where possible, the
13 resources, and if discovered, to evaluate
14 significance; and if significance is determined,
15 to mitigate appropriately for that significance?
16 Would that substantially less than potential
17 environmental impact?

18 A Well, it would certainly facilitate the
19 process of lessening that, i.e., it would
20 facilitate the interaction amongst these two
21 agencies so that you could accomplish the
22 preservation and lessen the impact, yes.

23 Q By agencies you mean the private
24 parties?

25 A The two private parties, correct.

1 MR. GRATTAN: That concludes my direct
2 examination.

3 PRESIDING MEMBER MOORE: You've tossed
4 out interesting things for the staff to think
5 about, I'm sure, in terms of designing
6 mitigations.

7 MR. GRATTAN: Yes.

8 PRESIDING MEMBER MOORE: Interesting
9 technique.

10 Let me turn to staff and ask if there
11 are questions on the testimony.

12 MS. HOLMES: No questions.

13 HEARING OFFICER FAY: From the
14 intervenors?

15 MS. POOLE: No questions.

16 PRESIDING MEMBER MOORE: We'll accept
17 that, then, into the record. Do we want a number?

18 HEARING OFFICER FAY: Well, we don't
19 need an exhibit number. It's been identified as
20 portions of various exhibits.

21 MR. GRATTAN: We'd like to move in
22 exhibit 1, section 8.3 and appendix D; exhibit 2,
23 section 3.3 and appendix S through D; exhibit 5,
24 responses to CEC data requests, responses 19
25 through 27 and 8 through 91; and also exhibit 7,

1 comments on the PSA, page 56 through 64.

2 HEARING OFFICER FAY: Without objection,
3 so moved.

4 (The above-referenced documents,
5 previously marked Applicant
6 exhibits 1, 8.3, D; 2, 3.3, SD; 5;
7 and 7, were received in evidence.)

8 HEARING OFFICER FAY: I have a question
9 of Mr. Jackson.

10 EXAMINATION

11 HEARING OFFICER FAY: I've tried to
12 understand your comment on the 90-day time limit.
13 I understand that you would like to have the
14 option of submitting the name and stating the
15 qualifications for the cultural specialist in
16 fewer than the 90 days prior to the start of
17 construction.

18 But would it accommodate your concerns
19 if the staff were to allow you to submit that in
20 anticipation of certification?

21 What I'm thinking is that the project is
22 concerned about a 90-day delay. Since this is not
23 an irrevocable act, in terms of the environment,
24 is this something that you could submit prior to
25 certification in the hopes that the project will

1 be certified, and therefore staff would have 90
2 days to do whatever it feel it needs to do?

3 Is that a possible alternative?

4 THE WITNESS: I think that would be
5 fine.

6 HEARING OFFICER FAY: All right, I'd
7 just like to get that out on the table, because
8 we're going to turn to staff and if that's
9 something that would accommodate this concern,
10 then we can move forward.

11 PRESIDING MEMBER MOORE: Ms. Holmes.

12 HEARING OFFICER FAY: All right, Ms.
13 Holmes, your witness.

14 MS. HOLMES: Thank you, staff's witness
15 on cultural resources is Kathryn Matthews. She
16 needs to be sworn.

17 HEARING OFFICER FAY: Please swear the
18 witness.

19 Whereupon,

20 KATHRYN MATTHEWS
21 was called as a witness herein and after first
22 being duly sworn, was examined and testified as
23 follows:

24 //

25 //

1 DIRECT EXAMINATION

2 BY MS. HOLMES:

3 Q Ms. Matthews, did you prepare the
4 cultural resources section of the FSA, which has
5 been identified as exhibit 23?

6 A I did.

7 Q And is a statement of your
8 qualifications contained in exhibit 23, as well?

9 A Yes.

10 Q And did you also prepare a document that
11 I believe has just recently been circulated that
12 has been identified as exhibit 24, which is errata
13 to staff's testimony on cultural resources?

14 A Yes, I did.

15 Q Do you have any additional changes or
16 corrections to your testimony at this time?

17 A I have some proposed language. In the
18 course of reviewing and preparing for today's
19 hearing I noticed that I had made a recommendation
20 that permit conditions which are generally applied
21 to BLM permits for oil field activities, I had
22 recommended that they be extended to the non-BLM
23 portions of the land included in the three-
24 quarters of a mile radius circled around the
25 proposed project.

1 And I recognize that I had not drafted
2 any language, and I thought probably you would ask
3 questions. And so I have put together an
4 extremely rough draft based on a condition that
5 was used in the High Desert Power Plant Project
6 that has to do with preparation of an agreement of
7 some type, legally binding agreement, between the
8 project owner and TCI, or whoever in the future
9 owns that oil field, and the lease that will be
10 served by the Sunrise Project.

11 And I think probably my high school
12 English teacher would not approve of the long
13 sentences, but there is some draft language --

14 PRESIDING MEMBER MOORE: Let me ask you
15 a question. Has the applicant seen this language?

16 THE WITNESS: Briefly. As --

17 MS. HOLMES: If I could step in at this
18 moment, what I think might work the best today is
19 for us to proceed with Ms. Matthews' testimony.
20 She can summarize this proposed condition; she can
21 discuss the errata and the body of her testimony.

22 If there are any questions remaining
23 about the precise wording of that condition at the
24 conclusion of today's hearing, she will also be
25 available on Thursday so that we can finish up.

1 We understand that there may be questions about --

2 PRESIDING MEMBER MOORE: Yeah, I think
3 that's the most appropriate. So why don't, rather
4 than go into the long sentences and the actual
5 detail of it, just state -- let's go through the
6 questions that Ms. Holmes will have, let's state
7 the intent of this additional question, and then
8 by the time Thursday's hearing rolls around, let's
9 have some exact language that everyone has seen
10 that accomplishes that, if there's no objection.
11 And go from there.

12 So, Ms. Holmes, why don't I turn it back
13 to you and let you introduce the topic and --

14 MS. HOLMES: Thank you, Commissioner
15 Moore.

16 BY MS. HOLMES:

17 Q Ms. Matthews, could you please briefly
18 summarize the intent of the proposed condition?

19 PRESIDING MEMBER MOORE: Actually, of
20 all her testimony, and the proposed condition.

21 BY MS. HOLMES:

22 Q I think you should answer Commissioner
23 Moore's question.

24 PRESIDING MEMBER MOORE: Well, in other
25 words, I'm trying to make sure that we're

1 consistent about this, and you've submitted
2 testimony to us -- I'm sorry, we have staff
3 comments. Summarize those, and then follow on
4 with this new proposed condition.

5 MS. HOLMES: Perhaps we could step back
6 just a second, then, and I'll go through things in
7 a more sequential kind of an order.

8 BY MS. HOLMES:

9 Q First of all, could you very very
10 briefly summarize your testimony that's contained
11 in exhibit 23?

12 A This project is located in a portion of
13 southwestern Kern County in which the native
14 peoples had a considerable presence and
15 development and use of resources. And as a
16 result, there are a number of archeological
17 resources that may be encountered during project
18 construction, project development.

19 Likewise, the oil industry has made a
20 considerable mark on the landscape and there are
21 remnants of early days oil field development,
22 which also have a potential for sensitivity and
23 significance, should they be encountered or
24 affected by the proposed project.

25 As Mr. Jackson has laid out, he has done

1 an extensive literature search and field surveys.
2 A number of artifacts, both historic and
3 prehistoric, were encountered on the surface. And
4 usually when you find things on the surface there
5 is a good chance that eventually somewhere in that
6 vicinity or along the route you will find items
7 below the surface.

8 The goal of staff's analysis and the
9 conditions proposed is to make sure that the
10 project does not have a negative effect on those
11 resources.

12 CEQA, beginning this year, now requires
13 the agency, the lead agency, which is the
14 Commission, to make a determination of whether or
15 not the project will have an effect on historic
16 resources, and they go on to define what historic
17 resources are. And once you've determined that
18 there may be historic resources present, then you
19 need to make a determination of significance.

20 Often that cannot be done until a
21 resource has actually been encountered. So we can
22 make a lot of plans for what we know is already
23 present on the surface, and we can do our best to
24 avoid those, but you still never know what may be
25 under the ground, and you have to be prepared for

1 that.

2 Often you cannot -- you can't make a
3 determination of significance until you find a
4 resource.

5 And then ultimately having determined
6 resources are present, there's a potential
7 significant, we have to adopt conditions that we
8 believe will reduce any potential impact to a less
9 than significant level.

10 So those are findings that the Committee
11 and the Commissioners need to make. And my job is
12 to present information to you so you can draw
13 those conclusions.

14 Yes, there are resources present that
15 meet the criteria for historic resource. Yes,
16 there's a potential for them to be significant.
17 And, yes, we have proposed conditions that we
18 feel, if they're properly implemented in a timely
19 manner, can minimize the potential for impact.

20 The conditions put together reflect all
21 of the work that was done by the applicant and Mr.
22 Jackson in making recommendations based on his
23 literature search and field surveys and his
24 tremendous experience in that part of the county.

25 We also have -- there are portions of

1 the lands that are crossed that are managed by the
2 U.S. Bureau of Land Management. They have their
3 own sets of conditions that typically are applied
4 to activities on their land.

5 I have spoken with the archeologist at
6 the Caliente Resources Area Office of BLM in
7 Bakersfield. In this particular project they have
8 chosen to work with or from the conditions that
9 have been prepared by staff, and ultimately
10 whatever is adopted by the Commission for this
11 project.

12 They have agreed, or indicated to me
13 that they prefer to be in kind of a review and
14 response role.

15 PRESIDING MEMBER MOORE: Do you want to
16 summarize the new condition that you're proposing?
17 What do you want?

18 MS. HOLMES: Maybe I could ask a couple
19 of questions to get at it in a more direct way.

20 BY MS. HOLMES:

21 Q Ms. Matthews, in exhibit 23 in the
22 cultural resources section you proposed a series
23 of conditions of certification?

24 A Yes.

25 Q And some of those are amended in exhibit

1 24?

2 A Yes.

3 Q And did you prepare exhibit 24 in
4 response to comments from the applicant contained
5 in exhibit 22 and other comments on various staff
6 assessment?

7 A I made a number of modifications and
8 additions to the text in my analysis, itself.
9 There was some modification of a number of the
10 conditions, as proposed in the text. The errata
11 has to do with, there were a couple of conditions
12 that I borrowed at the last minute from the High
13 Desert Project, and so it talks about going to the
14 Barstow office of BLM, which is not appropriate.
15 And neither is the reference to the High Desert
16 Power Plant Project. Those occur in cultural 10
17 and 11.

18 In cultural 8 we have changed an and to
19 an or in the requirement that the specialist keep
20 a daily log of resource findings.

21 In cultural 1 there have been text
22 related to movement or parking of heavy equipment
23 or other vehicles onto or over the project's
24 surface. That still needs some work and
25 refinement because the intent is not to prevent

1 access to the site for project development.

2 But there is a concern, sometimes, with
3 cultural resources, they can be impacted by
4 compression with the parking or passage of heavy
5 equipment.

6 The applicant had proposed in the
7 workshops on the PSA that we include language as
8 was discussed previously, allowing flexibility in
9 the timeframes for the conditions, themselves.
10 And in considering their suggestion that we add in
11 the, or a lesser extent of time as mutually
12 agreeable, my concern is that there is a
13 tremendous amount of work to be done by the
14 designated specialist, the designated cultural
15 resource specialist, that needs to take place in
16 an orderly sequence.

17 And that is the reason for the
18 timeframes that are placed in the conditions that
19 are suggested for adoption.

20 And in the workshop we talked about the
21 applicant's desire to -- they'd like to do some
22 things in advance so that they're ready at the
23 time of certification.

24 And I just wanted to hold firm with the
25 specific 90 days, 75 days, 60 days, 45 days, 30

1 days, 10 days sequence, because there is a lot to
2 accomplish in those timeframes. And the applicant
3 prepares information that comes to Commission
4 Staff for review and approval. Goes back to the
5 applicant, and if, for some reason, there is a
6 need to modify what has been proposed in response
7 to a condition, there is a lag in process time
8 that we have to account for.

9 And leaving out the language that the
10 applicant had proposed I don't think prevents them
11 from coming to the compliance project manager and
12 suggesting, well, could we do that in 85 days
13 instead of 90 days. There is a process that
14 exists that allows for those things to happen.
15 And they are not precluded from that.

16 And I do share a concern that you
17 mentioned, with the market situation we have
18 applicants who anticipate starting construction
19 the day after the permit is issued. And if you
20 have these conditions that back up to multiple
21 days prior to start of construction, --

22 PRESIDING MEMBER MOORE: They can't
23 start.

24 THE WITNESS: -- there's a difficulty.

25 PRESIDING MEMBER MOORE: Right. So

1 let's hear the new condition. What do you intend
2 to do with the new condition?

3 THE WITNESS: The new condition is very
4 specific to the potential for indirect impacts
5 associated with the development of 700 new wells
6 in a three-quarter mile radius around the power
7 plant project.

8 It is intended to extend the BLM
9 conditions that would apply to the BLM portions of
10 oil field development in that three-quarter mile
11 radius. And extend them to the non-BLM lands.

12 PRESIDING MEMBER MOORE: This came to
13 you just recently?

14 THE WITNESS: Yes.

15 PRESIDING MEMBER MOORE: Sounds bigger
16 than a breadbasket to me. Let's make sure
17 everybody's got a good look at this, and let's see
18 if we can develop a treasure trove of these things
19 that we use a little more regularly and not so
20 spontaneously in the future.

21 Mr. Grattan, do you have questions?

22 MR. GRATTAN: Any questions of the
23 witness. Not at this --

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. GRATTAN:

3 Q With regard to submissions in advance,
4 and I appreciate that there is a lot of work to be
5 done, is there any great discretion involved in
6 reviewing the qualifications of the designated
7 cultural resource specialist prior to
8 certification?

9 A There can be. I have to approach each
10 project in a consistent fashion. Now, with this
11 project I am familiar with Mr. Jackson's
12 background and his experience and his familiarity
13 with that area.

14 So I don't anticipate that my review,
15 should he be the designated specialist, I don't
16 anticipate it would take a long time to make a
17 determination that yes, he's qualified to do this
18 work.

19 But in other projects, where I may not
20 be familiar with the proposed specialist, it will
21 take sometime to go through their qualifications
22 and make contacts with other folks for whom they
23 have done projects.

24 So I'm sort of in a difficult place. We
25 are to be consistent across projects and not make

1 up conditions that are this way for this project,
2 and then totally different for another.

3 And so the flexibility and the options
4 come in just the knowledge. The 90-day timeframe
5 for designating the specialist is so that once a
6 specialist has been designated and approved, they
7 then must complete any pre-project surveys, they
8 must prepare a monitoring and mitigation plan that
9 is specific to this project and its resources and
10 requirements, they must prepare an education plan.
11 And pretty soon you're right down to it's time to
12 start construction and we're still scrambling.

13 PRESIDING MEMBER MOORE: You know, I
14 must be missing something in this discussion.
15 Because what I heard Mr. Jackson ask for was the
16 ability to designate a hitter up front. Here's
17 our guy, here's his qualifications, day one -- day
18 T-zero.

19 Tell me the significance of waiting
20 until T-90 to designate someone. How did I just
21 get -- I understand that you may want all of that
22 time to have their work coming in, to have them
23 respond to other things that occur in sequence.

24 In fact, it seems to me that they should
25 be available through time T-1000, if that's what

1 it takes, to get an adequate response back and
2 forth. But what do I care --

3 THE WITNESS: Is your T the start of
4 construction?

5 PRESIDING MEMBER MOORE: No, my T is the
6 day that this item has to be dealt with in the
7 compliance. Why do I care -- why would I want to
8 wait until the end of 90 days to designate
9 someone?

10 MS. HOLMES: Perhaps there's some
11 misunderstanding about the way the condition is
12 currently worded, --

13 PRESIDING MEMBER MOORE: And I think,
14 Caryn, that's what I'm saying. There probably is.

15 MS. HOLMES: Cultural 1 in exhibit 23
16 reads, at least 90 days prior to.

17 PRESIDING MEMBER MOORE: At least 90
18 days prior.

19 MS. HOLMES: To the start of project
20 construction. So --

21 THE WITNESS: I thought it said T minus
22 90, I believe.

23 PRESIDING MEMBER MOORE: T minus 90.

24 HEARING OFFICER FAY: Is there anything
25 wrong with making the T minus 90, if that's what

1 you need, a date that precedes, that anticipates
2 certification? It's the applicant's risk, right?

3 THE WITNESS: That's my understanding,
4 and I think that's a legal thing that I --

5 HEARING OFFICER FAY: But you would not
6 have a problem from your point of view --

7 THE WITNESS: No. Sooner is better
8 because --

9 PRESIDING MEMBER MOORE: I think they're
10 saying the same thing, sooner is better.

11 MR. GRATTAN: Yes, that's correct.

12 THE WITNESS: Yes.

13 HEARING OFFICER FAY: I don't think we
14 have a disagreement.

15 PRESIDING MEMBER MOORE: Yeah, okay.

16 THE WITNESS: If the current language
17 says at least 90 days prior to the start of
18 construction, and then the proposed other language
19 that I did not include, says or a lesser time,
20 lesser says to me something less than 90 days.
21 And i'm saying I think it's 90 days or more.

22 HEARING OFFICER FAY: Okay, we
23 understand. Okay.

24 THE WITNESS: Okay.

25 MR. GRATTAN: Our approach was to give

1 the Energy Commission's compliance person that
2 option to do it on a lesser time.

3 This witness does not want to exercise
4 that option, and we will oblige this witness and
5 the Commission, should it so choose, by submitting
6 what we can prior to certification.

7 PRESIDING MEMBER MOORE: Understand. I
8 just wanted to make sure that I understood what
9 the debate was about, and clearly I didn't. I
10 mean I thought I was going in one direction, and
11 it turns out to be there's an agreement on a
12 totally different direction.

13 Do you have other questions, Mr.
14 Grattan?

15 MR. GRATTAN: I don't have any other
16 questions of Ms. Matthews --

17 PRESIDING MEMBER MOORE: We'll end up
18 revisiting this on Thursday when this condition is
19 more fully fleshed out.

20 MR. GRATTAN: Might I make a request?
21 Mr. Jackson cannot be here on Thursday. Mr.
22 Jackson made quite a sacrifice to be here on
23 Tuesday.

24 Is it possible to have this, the one
25 subject that we take up, on Friday?

1 PRESIDING MEMBER MOORE: Well, probably
2 not. I probably would not make an exception just
3 to have this one topic. I'll tell you what I will
4 do. If this comes up and there's a question of
5 Mr. Jackson that only he can answer, after he's
6 seen this condition that comes up, I'll put him on
7 a speakerphone --

8 MR. GRATTAN: Fine.

9 PRESIDING MEMBER MOORE: -- here in the
10 middle of the room. We'll query him, he'll have a
11 faxed copy in front of him, and we'll get his
12 reaction to it.

13 MR. GRATTAN: That's --

14 HEARING OFFICER FAY: If it lends itself
15 to his affidavit, after reviewing it, if he could
16 submit something in writing --

17 MR. GRATTAN: Given that I have a final
18 question of Ms. Matthews.

19 CROSS-EXAMINATION - resumed

20 BY MR. GRATTAN:

21 Q Having had opportunity to see a draft of
22 your condition, would you have objections --
23 you've heard our witness, Mr. Jackson, testify to
24 what he believed were the hallmarks of a
25 mitigation program, and that is survey, avoidance,

1 education, analysis of significance, and
2 mitigation, if that were actually put into a
3 condition, as opposed to having a whole program o
4 a federal agency, which at least I'm not familiar
5 with, but to actually draft a condition of
6 mitigation, embodied in an agreement between the
7 cogeneration developer and the thermal host?

8 A That would be fine. And I would say
9 there's not a need for a survey probably.

10 Q Okay.

11 A Just -- and I want to clarify one thing.
12 This draft condition pertains only to the indirect
13 impact of the 700 new wells that are proposed to
14 be served by the Sunrise Power Project.

15 PRESIDING MEMBER MOORE: You made that
16 clear.

17 THE WITNESS: Okay.

18 PRESIDING MEMBER MOORE: You understand
19 that, Mr. Grattan?

20 MR. GRATTAN: Yes.

21 PRESIDING MEMBER MOORE: You've seen it,
22 the Commissioners have not seen it, so I guess --
23 do you get it? Because we don't.

24 (Laughter.)

25 PRESIDING MEMBER MOORE: We understand

1 the magnitude and we understand that it affects
2 the indirect impacts and not the direct impacts,
3 that's clear.

4 And I suppose it will be clearer when we
5 see the language.

6 MS. HOLMES: Would it be appropriate for
7 me at this point to move -- since we've sort of
8 gone to cross-examination already -- the cultural
9 resources portion of exhibit 23 and exhibit 24
10 into evidence at this time.

11 And also to mark, to save a number for
12 an exhibit that will be the new condition of
13 certification to be discussed Thursday?

14 HEARING OFFICER FAY: Mark for
15 identification as exhibit 28.

16 (The above-referenced document was
17 marked CEC Staff exhibit 28 for
18 identification.)

19 HEARING OFFICER FAY: Can you identify
20 it?

21 MS. HOLMES: Well, --

22 PRESIDING MEMBER MOORE: Indirect
23 impacts mitigation.

24 MS. HOLMES: Condition for indirect
25 impacts to cultural resources. And we'll put the

1 appropriate number on it.

2 HEARING OFFICER FAY: Any objection?

3 All right, that's moved into evidence at this
4 point.

5 (The above-referenced documents,
6 previously marked CEC Staff
7 exhibits 23, sections, and 24, were
8 received in evidence.)

9 HEARING OFFICER FAY: And exhibit 28
10 is marked for identification.

11 MS. HOLMES: I had one other question
12 and that's, first of all I want to say that staff
13 has no cross-examination for Dr. Jackson
14 regardless of what happens with the draft
15 condition, so his unavailability on Thursday is
16 not a problem for us.

17 I wanted to make sure that what we are
18 doing is leaving open only on Thursday the
19 discussion about the draft condition about
20 exhibit, I've lost the number already.

21 PRESIDING MEMBER MOORE: That's correct.

22 MR. GRATTAN: Good.

23 MS. HOLMES: Thank you.

24 PRESIDING MEMBER MOORE: And they have
25 agreement.

1 Ms. Poole.

2 MS. POOLE: I have no questions.

3 VICE CHAIRMAN ROHY: I'd like to -- and
4 it's a little irregular, I'd like to go back to
5 Mr. Jackson and ask if he finds acceptable the
6 staff conditions, as modified by the errata. And
7 I'm not asking about the new condition just
8 identified as exhibit 28.

9 (Laughter.)

10 DR. JACKSON: Yes, I am.

11 VICE CHAIRMAN ROHY: You are.

12 DR. JACKSON: In response to your
13 question, yes.

14 VICE CHAIRMAN ROHY: All right, thank
15 you.

16 PRESIDING MEMBER MOORE: Thank you.
17 Let's move to noise, our last topic for today.

18 Mr. Grattan.

19 MR. GRATTAN: We are proposing to
20 testify on the noise section by declaration. Our
21 witness isn't here. We are prepared to cross-
22 examine staff if that is appropriate.

23 And we are in receipt, also, of a staff
24 errata condition which we're prepared to discuss.

25 PRESIDING MEMBER MOORE: Well, let's

1 find out if it is appropriate. We'll put you on
2 hold for just a moment and turn to Ms. Holmes.

3 MS. HOLMES: Staff's witness on noise is
4 Kisabuli, and he needs to be sworn.
5 Whereupon,

6 M. KISABULI
7 was called as a witness herein, and after first
8 having been duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MS. HOLMES:

12 Q Good afternoon, Kisabuli.

13 A Good afternoon.

14 Q Did you prepare the noise section of the
15 final staff assessment which has been identified
16 as exhibit 23?

17 A I did.

18 Q And was a statement of your
19 qualifications included in exhibit 23?

20 A Yes, it is.

21 Q And do you have any changes or
22 corrections to your testimony at this time?

23 A Yes, I do. On page 92, NOISE6, would
24 like to substitute the language in condition 6
25 with the errata.

1 MS. HOLMES: And perhaps the easiest way
2 to do this is to simply mark the errata as an
3 exhibit. I believe it's been distributed.

4 HEARING OFFICER FAY: All right. So
5 that will be exhibit 29, titled errata to staff's
6 testimony, Sunrise Cogeneration and Power Project,
7 final staff assessment noise, testimony of
8 Kisabuli.

9 (The above-referenced document was
10 marked CEC Staff exhibit 29 for
11 identification.)

12 BY MS. HOLMES:

13 Q And, Kisabuli, does that language
14 replace in its entirety NOISE6 that was contained
15 in the final staff assessment?

16 A Yes, it does.

17 Q And with these changes are the facts
18 contained in your testimony true and correct?

19 A Yes, they are.

20 Q And do the opinion contained in the
21 testimony represent your best professional
22 judgment?

23 A Yes, they do.

24 Q Would you like to very briefly summarize
25 your testimony, specifically focusing on the

1 change in NOISE6?

2 A As regards NOISE6, we got a recommended
3 language from the applicant indicating that our
4 original condition NOISE6 was too restrictive
5 because we were very specific in calling out what
6 we termed as noisy construction.

7 And in response to that we made the
8 condition a little bit more flexible and more
9 general.

10 Q And, Kisabuli, with the change in
11 NOISE6, does your conclusion that the project will
12 not cause significant adverse impacts still stand?

13 A It still stands, yes.

14 Q Thank you.

15 MS. HOLMES: Kisabuli is available for
16 cross-examination.

17 PRESIDING MEMBER MOORE: Thank you, let
18 me ask a question.

19 EXAMINATION

20 PRESIDING MEMBER MOORE: Kisabuli, did
21 you have a chance to see the applicant's
22 declaration?

23 THE WITNESS: Yes, I did.

24 PRESIDING MEMBER MOORE: And did you
25 have any difficulties with that declaration?

1 Because we don't have their witness here, is there
2 anything that we should know about that, that you
3 had difficulty with?

4 THE WITNESS: I didn't have any
5 difficulty with the declaration, no.

6 PRESIDING MEMBER MOORE: Thank you. Mr.
7 Grattan, do you have questions for Kisabuli?

8 MR. GRATTAN: Cross-examination?

9 PRESIDING MEMBER MOORE: Yes.

10 MR. GRATTAN: Yes, yes.

11 CROSS-EXAMINATION

12 BY MR. GRATTAN:

13 Q In your professional judgment the newly
14 drafted condition provides appropriate mitigation
15 for the potentiality of excess noise during
16 construction?

17 A I believe it does, yes.

18 Q Thank you. And is it not true that your
19 noise table 4 of the staff report indicates that
20 the anticipated construction noise, maximum
21 anticipated construction noise at the noise
22 receptors does not exceed 40 dba leq?

23 A That's correct. It's level noise table
24 4 on page 81.

25 Q Thank you.

1 MR. GRATTAN: No further questions.

2 PRESIDING MEMBER MOORE: Thank you.

3 Intervenors?

4 MS. POOLE: No questions.

5 PRESIDING MEMBER MOORE: Any questions,

6 Commissioner Rohy?

7 VICE CHAIRMAN ROHY: No questions.

8 PRESIDING MEMBER MOORE: Mr. Fay?

9 HEARING OFFICER FAY: No questions.

10 PRESIDING MEMBER MOORE: Thank you.

11 With that -- I'm sorry, Caryn.

12 MS. HOLMES: And I move the noise
13 portion of exhibit 23 and exhibit 29 into evidence
14 at this time.

15 HEARING OFFICER FAY: So moved.

16 (The above-referenced document,
17 previously marked CEC Staff
18 exhibits 23, section, and 29, were
19 received in evidence.)

20 PRESIDING MEMBER MOORE: And, Mr.

21 Grattan, --

22 MR. GRATTAN: Yes, --

23 PRESIDING MEMBER MOORE: -- can we --

24 MR. GRATTAN: -- we will move the
25 applicant's noise exhibits, which are exhibit 1,

1 section 8.5, exhibit 2, section 3.5 and exhibit 7,
2 comments on the PSA pages 43 through 49.

3 HEARING OFFICER FAY: Any objection to
4 receiving that on affidavit?

5 Hearing none, that is entered at this
6 point.

7 (The above-referenced documents,
8 previously marked Applicant
9 exhibits 1, section 8.5; 2, section
10 3.5; and 7, were received in
11 evidence.)

12 HEARING OFFICER FAY: All right,
13 excellent.

14 Well, I think where we stand now is
15 we've made it through our topics for today with
16 the exception that we will revisit cultural on
17 Thursday to examine Ms. Matthews' proposed
18 conditions.

19 And is there anything else that will
20 come up, other than the items that were noticed in
21 the order?

22 Any closing remarks? All right.

23 MR. GRATTAN: We are prepared to submit
24 to the docket, I presume, the start-up curve, the
25 GE start-up curve exhibit --

1 HEARING OFFICER FAY: Yes, it's marked
2 for identification --

3 MR. GRATAN: -- as for identification.

4 HEARING OFFICER FAY: Yes. And I'd like
5 to, one other housekeeping thing. I'd like to ask
6 staff, would you like to mark for identification
7 the staff errata on facility design?

8 MS. HOLMES: I believe we did, it was
9 exhibit 25.

10 PRESIDING MEMBER MOORE: I thought we
11 did.

12 HEARING OFFICER FAY: Yes, I stand
13 corrected, thank you.

14 MS. HOLMES: We'll mark it again if it
15 will make you happy.

16 HEARING OFFICER FAY: It is exhibit 25,
17 I got it this time. Okay.

18 Anything else?

19 PRESIDING MEMBER MOORE: That's all.
20 We're adjourned. Thank you.

21 (Whereupon, at 3:25 p.m., the hearing
22 was adjourned, to reconvene at 1:00
23 p.m., Thursday, October 14, 1999, at
24 this same location.)

25 --o0o--

CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in the outcome
of said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 20th day of October, 1999.

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